

Jt. J. 89/2; S 21/2 / Jt. 2

THE NATURAL GAS INDUSTRY

HEARING
BEFORE THE
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY
AND THE
SUBCOMMITTEE ON
ADMINISTRATIVE PRACTICE AND PROCEDURE
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION

PART 2
ATTEMPTED DESTRUCTION OF FEDERAL POWER
COMMISSION DOCUMENTS

OCTOBER 16, 17, AND 18, 1973

Printed for the use of the Committee on the Judiciary
(Pursuant to S. Res. 56, secs. 3 and 4)



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THE NATURAL GAS INDUSTRY

(Attempted Destruction of FPC Documents)

TUESDAY, OCTOBER 16, 1973

U.S. SENATE,

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY AND
SUBCOMMITTEE ON ADMINISTRATIVE PRACTICES
AND PROCEDURES, COMMITTEE ON THE JUDICIARY

Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 2228, Dirksen Senate Office Building; Senator Philip A. Hart, chairman of the Subcommittee on Antitrust and Monopoly; Senator Edward M. Kennedy, chairman of the Subcommittee on Administrative Practice and Procedure.

Present: Senator Edward M. Kennedy, presiding.

Staff present: Subcommittee on Antitrust and Monopoly—Charles E. Bangert, general counsel; Bernard Nash, assistant counsel; Patricia Bario, editorial director; Janice Williams, chief clerk; Peter N. Chumbris, minority chief counsel; Charles E. Kern II, minority assistant counsel; Subcommittee on Administrative Practice and Procedure—Thomas M. Susman, assistant counsel; and Ann Landman, staff assistant.

Senator KENNEDY. The subcommittees will come to order.

The joint hearings of the Subcommittee on Administrative Practice and Procedure and the Antitrust Subcommittee are intended to provide Congress and the public with an indepth view of how a major Federal regulatory agency has been dealing with what is unquestionably one of the most critical problems facing the Nation today—supply of fuel for the coming years. We all know that our Nation is facing an energy crisis unparalleled in its history; we also know that one of the elements of that crisis is the claimed shortage of natural gas—a shortage which could mean cold children in our classrooms this winter, unhealthy conditions in our homes, and shutdowns of our places of work.

Congress has charged the Federal Power Commission with the responsibility of monitoring and regulating our supply of natural gas. Serious allegations have been raised, however, concerning the manner in which that agency has discharged these responsibilities. The accuracy of the information which the public has been given on the shortage of natural gas is in question, as is the degree of candor with which we have been given even the most elementary description of the structure of the natural gas industry. Resolution of these questions is basic to legislative and administrative action to relieve the energy crisis. It is this dual role of administrative supervision and legislative action which brings the two subcommittees here today.

A year ago the FPC instituted an update of a nationwide survey of the uncommitted natural gas reserves in our country. By marking the level of gas available for commitment to pipelines and consumers over a period of time, the Commission expected to be able to monitor whether there was, in fact, a gas shortage. Further, it was supposed to enable the Commission to evaluate how its policies were affecting that shortage. The data developed also could be used to show the degree of concentration in the industry, a fact relevant not only to the development of Commission policies, but also to the interests of other agencies of the executive branch and to the Senate Antitrust Subcommittee. The survey could have been a critical, essential, and irreplaceable resource to the people of America.

Last spring these documents comprising the FPC's survey of natural gas reserves were torn up and sent to be burned. Apparently only a malfunctioning incinerator saved them from destruction. The activities of Commission staff before and after the attempted destruction, and the validity of the survey itself, are the subjects of this hearing.

We know that an attempt was made to destroy the documents, and we want to know why. Was this standard operating procedure within the Commission, the irresponsible act of a single individual, or the result of a series of misunderstandings and errors? Was the timing of the attempted destruction fortuitous, or was it designed specifically to deny that information to the Antitrust Subcommittee or to the FPC's Office of Economics? And what does this attempted destruction of documents generally reflect concerning the Commission's general responsiveness to the mandates of Congress and the public? These questions are of vital interest to the Antitrust Subcommittee's continuing development of legislation and information on the competitive structure and practices of the gas industry, and equally to the Administrative Practice Subcommittee's continuing review of regulatory agency practices and procedures in carrying out their congressionally delegated responsibilities.

Senator Hart could not be here this morning and I would like to read into the record at this point, a letter from him concerning these hearings. Senator Hart writes:

Unfortunately, I am not able to be present as you open hearings to get the story behind the attempt to destroy the natural gas reserve documents at the Federal Power Commission. However, I have been briefed by the staff of the results of the investigation they undertook at my direction and they will be there to represent me.

As the record unfolds, I think it will be demonstrated that this is a most worthwhile area for both subcommittees—Antitrust and Administrative Practice—to be spending time.

The documents in question seem to have a direct bearing on the reliability of the information the nation is getting with respect to the amount of natural gas we have.

They also can be used to shed some light on the potential impact concentration in this industry may have on the shortage of natural gas we currently face.

Clearly, it is important to understand all facets surrounding this attempted destruction—not only the "how" and "when" but most important "why."

I also would like to place in the record at this point the FPC Order initiating the Natural Gas Reserve Survey; Chairman Hart's letters requesting data, and responses thereto; and the subcommittee subpoena with the Commission's formal response.

[The above-noted documents follow. Testimony resumes on p. 854.]

FEDERAL POWER COMMISSION,
Washington, D.C., March 8, 1971.

Re OGC, docket No. R-405, Reliability of Electric and Gas Service

Mr. KENNETH F. PLUMB,
Acting Secretary, Federal Power Commission,
441 G Street NW., Washington, D.C.

DEAR MR. PLUMB: By order issued November 4, 1970, in the above-entitled proceeding, the Commission, among other things, directed that an investigation be undertaken to determine the amount of proven natural gas reserves which are available for sale in the Continental United States and Alaska. The Commission further directed that the investigation determine the amount of additional natural gas which producers could make available for sale on a temporary basis during the current and subsequent four winter seasons from company use, warranty gas and gas committed to any purchaser for which there is excess deliverability.

In the aforementioned order, the Commission specifically set forth that the individual company information gathered in this investigation will be kept in a confidential status in accordance with Section 8(b) of the Natural Gas Act [15 U.S.C. 717(g)] and the Freedom of Information Act [15 U.S.C. 552(b)(4)], and that its data would be combined with that of other producers and filed as a composite report in the public files in this proceeding.

In order to carry out this assignment, 75 gas producers, representing all of the large gas producers whose individual total jurisdictional sales of natural gas are in excess of 10 million Mcf annually, were directed to respond to the investigation. A true and correct copy of the direction of November 20, 1970, with a listing of the addressees, is attached. Three versions of this letter, differing only in whether the place of investigation was Houston, Tulsa, or Washington, D.C., were sent. All of the producers responded to this request and those having gas reserves or additional natural gas available for sale furnished such data.

The information obtained from the producers has been composited on a geographic production area basis and is attached.

This letter together with its attachments should be filed as a report to the Commission pursuant to paragraph 11 of the Commission's aforementioned order of November 4, 1970, in Docket No. R-405 and become part of the record therein.

JOHN W. WILLIAMS,
Investigating Officer.
JAMES R. TOURTELLOTTE,
Investigating Officer.
PAUL L. BRADY,
Investigating Officer.

FEDERAL POWER COMMISSION,
Washington, D.C., November 20, 1970.

Re: OGC-H, Docket No. R-405, Reliability of Electric and Gas Service

GENTLEMEN: On November 4, 1970, the Federal Power Commission issued a Policy Statement, Notice of Investigation and Proposed Rulemaking with Respect to Developing Emergency Plans (Docket No. R-405) in connection with reliability of electric and gas service in the United States. A copy of Docket No. R-405 is enclosed for your convenience.

With respect to gas producers, the objective of the Commission is to assess the availability of gas reserves in the United States, both as to the present and future. The evaluation of that data will assist the Commission in meeting its responsibility under the Natural Gas Act to insure an adequate supply of natural gas to the consumer.

R-405 has three separate but interrelated concepts which are directed toward achieving the Commission's objective. These concepts are the Policy Statement (page one), the Rulemaking (paragraphs 3 and 10) and the Investigation (paragraph 8). Paragraph 6 applies to the available natural gas supply and operations of pipeline companies only and *not* to producers. All other paragraphs pertain to electric utilities, Commission jurisdiction, investigation officers or administrative procedures.

Paragraph 8 sets out the substance of the investigation as it applies to producers. Phase I and Phase II of the Investigation as set out in paragraph 5 merely provide two separate time frames for structuring responses. Paragraph 4 obviates the necessity of duplicating information previously submitted to the Commission.

The information requested from individual producers is set forth in Appendices A, B and C attached to this letter. In preparing your company's submittal, you should:

1. Answer questions A through D of Appendix A and execute the certification at the bottom of the page.
2. Answer questions E through O of Appendix A or complete Appendices B and C. (Appendices B and C are simply composites of questions E through O in Appendix A and answering Appendices B and C is preferred.)

If your company does not have any volumes of natural gas available for sale within the scope of this investigation, please submit a certified statement in writing to this effect to Mr. John Williams at the address set out below on or before November 25, 1970. No personal appearance will then be necessary.

As a convenience to those producers not wishing to send their data to the Commission offices in Washington, the investigating officers will visit different geographic regions for the purpose of collecting pertinent information. In the case of your company, they will be in Houston, Texas, on December 16th and 17th, 1970, in Room 8212 of the Federal Building, 515 Rusk Ave., Phone 226-4218. If you wish to present your data in that location, then prior to November 25, 1970, you should either telephone John Williams at 202-386-3972 or Paul Brady at 202-386-3081 or write to one of them at the Federal Power Commission, 441 G Street, N.W., Washington, D.C. 20426 to schedule a time convenient for your company to submit its data on one of those dates.

In the event that it is inconvenient for you to appear on one of the dates specified, Mr. Williams and Mr. Brady will be available for appointment in Washington, D.C. on December 9th, 10th, or 11th, or your report may be mailed to either of them prior to December 9th. Reports will be returned immediately upon transcription.

The individual company information received at this investigation will be kept in a confidential status by the Investigating Officer in accordance with the provisions of Section 8(b) of the Natural Gas Act. Records of the volumes of available reserves will be maintained only in composite form with no identification as to the controlling producer. The only record made as to individual companies shall be the names of those appearing pursuant to this order.

Although this letter should be given the legal effect of an order by an investigating officer issued within the scope of authority granted under paragraph 11 of R-405, it should also be understood that we seek to carry out this investigation in a spirit of cooperation. If you have any problems complying with this order, Mr. Williams or Mr. Brady will assist in every way possible.

Very truly yours,

JAMES R. TOURTELLOTTE,
Investigating Officer.

Enclosure.

DOCKET NO. R-405

APPENDIX A

Amerada Hess Corporation	Edwin L. Cox
American Petrofina Co. of Texas	CRA, Inc.
Anadarko Production Company	Diamond Shamrock Corporation
Ashland Oil and Refining Company	Dorchester Gas Production Company
Atlantic-Richfield Company	Exchange Oil and Gas Company
Austral Oil Co., Inc.	Forest Oil Corporation
Aztec Oil and Gas Company	General American Oil Co. of Texas
Belco Petroleum Corporation	Getty Oil Company
Beta Development Company	Gulf Oil Corporation
Cabot Corporation	Hassie Hunt Trust
California Co., Div. Chevron Oil Company	Helmerick & Payne, Inc.
Champlin Petroleum Company	Houston Natural Gas Prod. Company
Chevron Oil Co.	J. M. Huber Corporation
Cities Service Company	Humble Oil and Refining Company
Cities Service Oil Company	Hunt Oil Company
Coastal States Producing Company	The Jupiter Corporation
E. Cockrell, Jr.	Kerr-McGee Corporation
Colorado Oil and Gas Corporation	Livingston Oil Company
Colttxo Corporation	Lone Star Producing Company
Continental Oil Company	Magna Oil Corp.
	Mapeo Production Company

DOCKET NO. R-405—Continued

APPENDIX A—continued

Marathon Oil Company	Sohio Petroleum Company
Mobil Oil Corporation	Southern Natural Gas, Jt. Venture
Monsanto Company	Southern Union Gathering Company
Natural Gas and Oil Corporation	Southern Union Production Company
Northern Natural Gas Prod. Company	Southwest Gas Prod., Inc.
Northeast Blanco Development Corp.	Sun Oil Company
Pan American Petroleum Company	Tenneco Oil Company
Phillips Petroleum Company	Texaco Inc.
Placid Oil Company	Texas Gas Exploration Corporation
Pennzoil Producing Company	Texas Oil and Gas Corporation
Pennzoil United, Inc.	Texas Pacific Oil Co., Inc.
Pubco Petroleum Corporation	Transocean Oil, Inc.
Richardson Oils, Inc.	The Superior Oil Company
Service Gas Products Company	Union Oil Company of California
Shell Oil and Gas Company	Union Pacific Railroad Co.
Signal Oil and Gas Company	Union Texas Petroleum
Skelly Oil Company	Warren Petroleum Corporation

Question A. Will you please state your name, the name of your company and your position with the company?

Question B. Are you authorized by your company to furnish the information requested in the following interrogatories?

Question C. If not, will you please state the name or names of the official or officials of your company who have such information?

Question D. Do you understand that the Investigating Officer will combine the information obtained from you with information obtained from others and file a composite report in the public files in Docket No. R-405?

CERTIFICATION

I certify that the information hereon is correct to the best of my knowledge.

Question E. Will you please state the net working interest volumes, including associated royalty interest volumes, of provided recoverable reserves of non-associated natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1969, for the areas hereinafter designated? (For the purpose of questions E-J, the term "proved reserves" is used as defined by the Committee on Natural Gas Reserves of the American Gas Association and such definition is set forth on Appendix B-2 of this letter. The volumes held "available for sale" in questions E-J are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, not company use-warranty gas or not company use-fuel and feedstock.)

What are the volumes in:

- | | |
|--------------------------------------|--------------------------------------|
| 1. Alaska? | 11. North Louisiana? |
| 2. Northern Arkansas? ¹ | 12. South Louisiana? |
| 3. Southern Arkansas? | 13. Offshore Louisiana? ² |
| 4. California? | 14. Michigan? |
| 5. Offshore California? ² | 15. Mississippi? |
| 6. Colorado? | 16. Montana? |
| 7. Illinois? | 17. Nebraska? |
| 8. Indiana? | 18. Northwest New Mexico? |
| 9. Kansas? | 19. Southeast New Mexico? |
| 10. Kentucky? | 20. New York? |

21. North Dakota?
 22. Ohio?
 23. Oklahoma Panhandle area? ³
 24. Oklahoma Anadarko area?
 25. Eastern Oklahoma?
 26. Pennsylvania?
 27. Texas Railroad District No. 9?
 28. Texas Railroad District No. 10?
 29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
 31. Texas Railroad District Nos. 1, 2, 3 and 4?
 32. Offshore Texas? ²
 33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee, and Washington.

Question F. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1969, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
 2. Northern Arkansas? ¹
 3. Southern Arkansas?
 4. California?
 5. Offshore California? ²
 6. Colorado?
 7. Illinois?
 8. Indiana?
 9. Kansas?
 10. Kentucky?
 11. North Louisiana?
 12. South Louisiana?
 13. Offshore Louisiana? ²
 14. Michigan?
 15. Mississippi?
 16. Montana?
 17. Nebraska?
 18. Northwest New Mexico?
 19. Southeast New Mexico?
 20. New York?
21. North Dakota?
 22. Ohio?
 23. Oklahoma Panhandle area? ³
 24. Oklahoma Anadarko area?
 25. Eastern Oklahoma?
 26. Pennsylvania?
 27. Texas Railroad District No. 9?
 28. Texas Railroad District No. 10?
 29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
 30. Texas Railroad District Nos. 5 and 6?
 31. Texas Railroad District Nos. 1, 2, 3 and 4?
 32. Offshore Texas? ²
 33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South, Dakota, Tennessee and Washington.

Question G. Will you please state the *total* net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated and of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1969, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? ¹
3. Southern Arkansas?
4. California?
5. Offshore California? ²
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? ²
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? ³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? ²
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question H. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of nonassociated natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of October 1, 1970, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? ¹
3. Southern Arkansas?
4. California?
5. Offshore California? ²
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? ²
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? ³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? ²
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question I. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your

company had available for sale as of October 1, 1970, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas?²
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question J. Will you please state the *total* net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated and of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of October 1, 1970, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas?²
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question K. Will you please estimate the volume of additional natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that can be made available for sale by your company during a 60-day period of normal demand from November 1, 1970 through March 31, 1971, for the areas hereinafter designated? (For the purpose of questions K-O, the term "additional natural gas" is defined as follows:

Additional natural gas (associated-dissolved and non-associates) available for sale as determined by the reporting company shall include the sum of (a) the volume of natural gas a producer has or estimates he may have in excess of his minimum requirements for the reporting periods for company use gas—which shall include volumes held for fulfillment of warranty gas sales contracts, and volumes held as fuel for gas processing plants and field operations and fuel or feedstock for refineries, chemical plants and other similar manufacturing operations, but not subject to specific contract arrangements—and (b) the volumes of excess deliverability—that is, the volume of natural gas a producer estimates that he can deliver for the reporting periods over the gas he delivered during an average 60-day period during 10-1-69 through 3-31-70—of natural gas, if any, from dedicated acreage that can be made available for sale under existing proration quantities without major alterations of producing, gathering or transporting facilities.

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas?²
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question L. Will you please estimate the volume of additional natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company can make available for sale during a 60-day period of normal demand from October 1, 1971 through March 31, 1972, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?

21. North Dakota?
 22. Ohio?
 23. Oklahoma Panhandle area?³
 24. Oklahoma Anadarko area?
 25. Eastern Oklahoma?
 26. Pennsylvania?
 27. Texas Railroad District No. 9?
 28. Texas Railroad District No. 10?
 29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
 31. Texas Railroad District Nos. 1, 2, 3 and 4?
 32. Offshore Texas?²
 33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question M. Will you please estimate the volume of additional natural gas in MMcf, at 14.73 psia and 69 degrees Fahrenheit, that your company can make available for sale during a 60-day period of normal demand from October 1, 1972 through March 31, 1973, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
 2. Northern Arkansas?¹
 3. Southern Arkansas?
 4. California?
 5. Offshore California?²
 6. Colorado?
 7. Illinois?
 8. Indiana?
 9. Kansas?
 10. Kentucky?
 11. North Louisiana?
 12. South Louisiana?
 13. Offshore Louisiana?²
 14. Michigan?
 15. Mississippi?
 16. Montana?
 17. Nebraska?
 18. Northwest New Mexico?
 19. Southeast New Mexico?
 20. New York?
21. North Dakota?
 22. Ohio?
 23. Oklahoma Panhandle area?³
 24. Oklahoma Anadarko area?
 25. Eastern Oklahoma?
 26. Pennsylvania?
 27. Texas Railroad District No. 9?
 28. Texas Railroad District No. 10?
 29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
 30. Texas Railroad District Nos. 5 and 6?
 31. Texas Railroad District Nos. 1, 2, 3 and 4?
 32. Offshore Texas?²
 33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question N. Will you please estimate the volume of additional natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company can make available for sale during a 60-day period of normal demand from October 1, 1973 through March 31, 1974, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas?²
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question O. Will you please estimate the volume of additional natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company can make available for sale during a 60-day period of normal demand from October 1, 1974 through March 31, 1975, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas?²
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

APPENDIX B

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE¹[Million ft³ at 14.73 lb/in²a, 60°F.]

State	Volumes as of Dec. 31, 1969			Volumes as of Oct. 1, 1970		
	Non-associated	Associated-dissolved	Total	Non-associated	Associated-dissolved	Total
Alaska.....						
Arkansas: ²						
Northern.....						
Southern.....						
California.....						
Offshore California ³						
Colorado.....						
Illinois.....						
Indiana.....						
Kansas.....						
Kentucky.....						
Louisiana:						
North.....						
South.....						
Offshore ³						
Michigan.....						
Mississippi.....						
Montana.....						
Nebraska.....						
New Mexico:						
Northwest.....						
Southeast.....						
New York.....						
North Dakota.....						
Ohio.....						
Oklahoma: ⁴						
Panhandle.....						
Anadarko.....						
Eastern.....						
Pennsylvania.....						
Texas:						
Railroad Dist. No. 9.....						
Railroad Dist. No. 10.....						
Railroad Dist. Nos. 8, 8A, 7B, 7C.....						
Railroad Dist. Nos. 5, 6.....						
Railroad Dist. Nos. 1, 2, 3, 4.....						
Offshore ³						
Utah.....						
Virginia.....						
West Virginia.....						
Wyoming.....						
Miscellaneous ⁵						
Total.....						

¹ Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, proved reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale" are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² Arkansas is divided between north and south by base line separating townships north and south.

³ Offshore areas shall be measured from the coastline seaward.

⁴ Oklahoma is divided between eastern and western Oklahoma by the central Oklahoma Indian meridian separating ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the panhandle meridian separating ranges E and W.

⁵ Includes Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee, and Washington.

APPENDIX C

ESTIMATED TOTAL VOLUMES OF ADDITIONAL NATURAL GAS AVAILABLE FOR SALE¹[Millions of cubic feet at 14.73 lb/in², 60° F.]

State	Mar. 31, 1971	During a 60-day period of normal demand from October 1 Nov. 1, 1970 through the following March 31 for:			
		1971-72	1972-73	1973-74	1974-75
Alaska					
Arkansas: ²					
Northern					
Southern					
California					
Offshore California ³					
Colorado					
Illinois					
Indiana					
Kansas					
Kentucky					
Louisiana:					
North					
South					
Offshore ³					
Michigan					
Mississippi					
Montana					
Nebraska					
New Mexico:					
Northwest					
Southeast					
New York					
North Dakota					
Ohio					
Oklahoma: ⁴					
Panhandle					
Anadarko					
Eastern					
Pennsylvania					
Texas:					
RR Dist. No. 9					
RR Dist. No. 10					
RR Dist. Nos. 8, 8A, 7B, 7C					
RR Dist. Nos. 5, 6					
RR Dist. Nos. 1, 2, 3, 4					
Offshore ³					
Utah					
Virginia					
West Virginia					
Wyoming					
Miscellaneous ⁵					
Total					

¹ Total volumes of additional natural gas (associated-dissolved and nonassociated) available for sale as determined by the reporting company shall include the sums of (a) the volume of natural gas a producer has or estimates he may have in excess of his minimum requirements for the reporting periods for company use gas—which shall include volumes held for fulfillment of warranty gas sales contracts, and volumes held as fuel for gas processing plants and field operations and fuel or feedstock for refineries, chemical plants and other similar manufacturing operations, but not subject to specific contract arrangements and (b) the volumes of excess deliverability—that is, the volume of natural gas a producer estimates that he can deliver for the reporting periods over the gas he delivered during an average 60-day period during Oct. 1, 1969 through Mar. 31, 1970—of natural gas, if any, from dedicated acreage that can be made available for sale under existing proration quantities without major alterations of producing, gathering or transporting facilities.

² Arkansas is divided between North and South by base line separating townships North and South.

³ Offshore areas shall be measured from the coastline seaward.

⁴ Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁵ Includes Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee, and Washington.

COMPARISON OF TOTAL REPORTED NATURAL GAS RESERVES WITH LARGE PRODUCERS

TOTAL PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE—MILLIONS OF CUBIC FEET AT 14.73 PSIA AND 60°F
 (Continental United States Excluding Alaska)

Area	Total proven reserves as of December 31, 1969, reported by American Gas Association ²	Large producers reserves available for sale ¹ As of December 31, 1969	As of October 1, 1970
South Louisiana.....	80,769,437	2,014,110	2,173,303
Onshore.....	56,666,983	3 1,004,206	3 1,117,499
Offshore.....	1 24,102,454	3 1,009,904	3 1,055,804
Texas gulf coast ⁴	5 67,540,216	1,056,974	735,326
Onshore.....		597,210	494,405
Offshore.....		459,764	240,921
Permian Basin ⁵	29,977,869	591,927	353,087
Hugoton-Anadarko ⁷	36,894,586	355,542	394,963
Other Southwest ⁸	23,236,084	251,828	430,320
Rocky Mountain ⁹	17,514,030	193,569	205,620
Appalachian ¹⁰	6,048,395	7,463	10,846
Unclassified areas:			
Michigan.....	750,964	4,363	1,115
California.....	6,870,946	52,222	10,252
All others.....	304,165	45,482	60,002
Total lower "48".....	269,906,692	4,578,480	4,374,834

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 M ft³. Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

² The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test.

³ The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the Committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir.

⁴ Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, Proved Reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

⁵ Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale" are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

⁶ AGA figures include zone 1 offshore in onshore figures.

⁷ Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e., zone 1 is included in onshore). The respondents in docket No. R-405 included only large producers. The respondents in docket No. AR69-1 included large and certain small producers as well as pipeline companies.

⁸ Consists of Texas RR District Nos. 1, 2, 3, and 4.

⁹ Includes offshore reserves.

¹⁰ Consists of Texas RR District Nos. 7-B, 7-C, 8, and 8A and southeast New Mexico.

¹¹ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR District No. 10. Other southwest includes Arkansas, Eastern Oklahoma, Texas RR District Nos. 5, 6, and 9, North Louisiana and Mississippi.

¹² Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and northwest New Mexico.

¹³ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

COMPARISON OF ALASKA TOTAL REPORTED NATURAL GAS RESERVES WITH LARGE PRODUCERS ALASKA TOTAL PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE

[Million ft³ at 14.73 lb/in.²a and 60° F.]

	Total proven reserves as of December 31, 1969, reported by American Gas Association	Large producers reserves available for sale ¹	As of December 31, 1969	As of October 1, 1970
Alaska.....	5,202,143	2 1,406,804	2 1,699,297	

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 M ft³.
² The 1,406,804 MM ft³ of reserves in 1969 and the 1,699,297 MM ft³ of reserves in 1970 do not include Alaska North Slope reserves. Alaska North Slope total R-405 reported gas reserves are 26,000,000 MM ft³ of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1976.

TOTAL LARGE PRODUCER PROVED NONASSOCIATED NATURAL GAS RESERVES AVAILABLE FOR SALE
 (CONTINENTAL UNITED STATES EXCLUDING ALASKA)¹

[Million cubic feet at 14.73 lb/in.²a and 60° F.]

	As of Dec. 31, 1969	As of Oct. 1, 1970
South Louisiana.....	1,662,668	1,812,726
Onshore.....	2 781,038	2 936,775
Offshore.....	2 881,630	2 875,951
Texas gulf coast ³	944,294	648,047
Onshore.....	484,530	438,926
Offshore.....	459,764	239,121
Permian Basin ⁴	583,594	342,811
Hugoton-Anadarko ⁵	350,271	384,741
Other Southwest ⁶	142,949	323,046
Rocky Mountain ⁷	188,023	193,745
Appalachian ⁸	3,592	5,864
Unclassified areas:		
Michigan.....	3,725	200
California.....	48,616	7,150
All others.....	45,240	59,316
Total lower 48.....	3,972,972	3,777,646

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 M ft³.

² Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in Docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e., zone 1 is included in onshore). The respondents in Docket No. R-405 included only large producers. The respondents in Docket No. AR69-1 included large and certain small producers as well as pipeline companies.

³ Consists of Texas Railroad District Nos. 1, 2, 3, and 4.

⁴ Consists of Texas Railroad District Nos. 7-B, 7-C, 8 and 8A and southeast New Mexico.

⁵ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas Railroad District No. 10.

⁶ Other Southwest includes Arkansas, eastern Oklahoma, Texas Railroad District Nos. 5, 6, and 9, north Louisiana and Mississippi.

⁷ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and northwest New Mexico.

⁸ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

ALASKA TOTAL LARGE PRODUCER PROVED NONASSOCIATED NATURAL GAS RESERVES AVAILABLE FOR SALE

[In millions of cubic feet at 14.73 lb/in.²a and 60° F.]¹

	As of Dec. 31, 1969	As of Oct. 1, 1970
Alaska.....	2 1,275,754	2 1,572,254

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 M ft³.

² The 1,275,754 M ft³ of reserves in 1969 and the 1,572,254 M ft³ of reserves in 1970 do not include Alaska North Slope reserves.

TOTAL LARGE PRODUCER PROVED ASSOCIATED DISSOLVED NATURAL GAS RESERVES AVAILABLE FOR SALE—
CONTINENTAL UNITED STATES EXCLUDING ALASKA

[In millions of cubic feet at 14.73 lb/in²a and 60° F]†

	As of Dec. 31, 1969	As of Oct. 1, 1970
South Louisiana.....	351,442	360,577
Onshore.....	² 223,168	² 180,724
Offshore.....	² 128,274	² 179,853
Texas Gulf Coast ³.....	112,680	87,279
Onshore.....	112,680	85,479
Offshore.....	0	1,800
Permian ⁴.....	8,333	10,276
Hugoton-Anadarko ⁵.....	5,271	10,222
Other Southwest ⁶.....	108,879	107,274
Rocky Mountain ⁷.....	10,546	11,875
Appalachian ⁸.....	3,871	4,982
Other areas:		
Michigan.....	638	915
California.....	3,606	3,102
All others.....	242	686
Total lower 48.....	605,508	597,188

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 M ft³.
² Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e., zone 1 is included in onshore). The respondents in docket No. R-405 included only large producers. The respondents in docket No. AR-69-1 included large and certain small producers as well as pipeline companies.

³ Consists of Texas RR. District Nos. 1, 2, 3, and 4.

⁴ Consists of Texas RR. District Nos. 7-B, 7-C, 8 and 8A, and southeast New Mexico.

⁵ The Hugoton-Anadarko Area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR. District No. 10.

⁶ Other Southwest includes Arkansas, Eastern Oklahoma, Texas RR. District Nos. 5, 6, and 9, North Louisiana and Mississippi.

⁷ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and northwest New Mexico.

⁸ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

ALASKA TOTAL LARGE PRODUCER PROVED ASSOCIATED DISSOLVED NATURAL GAS RESERVES AVAILABLE FOR SALE

[In millions of cubic feet at 14.73 lb/in²a and 60° F]†

	As of December 31, 1969	As of October 1, 1970
Alaska.....	² 131,050	² 127,043

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 M ft³.

² The 131,050 MM ft³ of reserves in 1969 and the 127,043 MM ft³ of reserves in 1970 do not include Alaska North Slope reserves.

ESTIMATED TOTAL VOLUMES OF ADDITIONAL NATURAL GAS AVAILABLE FOR SALE¹[In millions of cubic feet at 14.73 lb/in²a and 60° F.]

	During a 60-day period of normal demand from Nov. 1, 1970 through Mar. 31, 1971	During a 60-day period of normal demand from Oct. 1 through the following Mar. 31 for—			
		1971-72	1972-73	1973-74	1974-75
South Louisiana.....	15,786.0	18,505.787	17,683.750	15,297.212	13,576.675
Onshore.....	5,536.0	3,713.6	3,070.6	1,719.1	1,568.6
Offshore.....	10,250.0	14,792.187	14,613.15	13,578.112	12,008.075
Texas Gulf Coast ²	389.0	226.7	222.3	234.6	221.2
Onshore.....	389.0	226.7	222.3	234.6	221.2
Offshore.....	0	0	0	0	0
Permian Basin ³	3,322.0	963.2	918.2	728.2	572.3
Hugoton-Anadarko ⁴	9,937.8	7,901.4	5,858.3	5,352.9	5,175.3
Other Southwest ⁵	2,286.3	2,589.7	2,497.9	1,919.	1,893.6
Rocky Mountain ⁶	5,387.2	4,575.2	4,255.7	3,981	3,706.5
Appalachian ⁷	220.0	0	0	0	0
Unclassified areas:					
Michigan.....	0	0	0	0	0
California.....	9,050.0	6,780	4,880	3,430	2,220
All others ⁸	367.3	350.5	332.7	307.7	307.7
Total.....	46,745.6	41,892.487	36,648.85	31,250.612	27,673.275

¹ Total volumes of additional natural gas (associated-dissolved and nonassociated) available for sale as determined by the reporting company shall include the sums of (a) the volume of natural gas a producer has or estimates he may have in excess of his minimum requirements for the reporting periods for company use gas—which shall include volumes held for fulfillment of warranty gas sales contracts, and volumes held as fuel for gas processing plants and field operations and fuel or feedstock for refineries, chemical plants and other similar manufacturing operations, but not subject to specific contract arrangements—and (b) the volumes of excess deliverability—that is, the volume of natural gas a producer estimates that he can deliver for the reporting periods over the gas he delivered during an average 60-day period during Oct. 1, 1969 through Mar. 31, 1970—of natural gas, if any, from dedicated acreage that can be made available for sale under existing proration quantities without major alterations of producing, gathering, or transporting facilities.

² Consists of Texas RR. District Nos. 1, 2, 3, and 4.

³ Consists of Texas RR. District Nos. 7-B, 7-C, 8, and 8A, and Southeast New Mexico.

⁴ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR. District No. 10.

⁵ Other Southwest includes Arkansas, Eastern Oklahoma, Texas RR. District Nos. 5, 6, and 9, North Louisiana, and Mississippi.

⁶ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and Northwest New Mexico.

⁷ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

⁸ Includes Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee, and Washington.

UNITED STATES OF AMERICA, FEDERAL POWER COMMISSION

[18 C.F.R. Part 2]

Re Reliability of Electric and Gas Service

POLICY STATEMENT NOTICE OF INVESTIGATION AND PROPOSED RULEMAKING WITH RESPECT TO DEVELOPING EMERGENCY PLANS, NOVEMBER 4, 1970

It has long been a policy of this Commission to cooperate with Governmental agencies whose jurisdictions involve reliability of gas and electric service. The Commission reaffirms this policy of cooperation as it applies to the instant investigation and rulemaking proceeding. In addition, the Commission by and through its staff stands ready at all times to confer with jurisdictional and non-jurisdictional production, transmission, or distribution companies or associated groups facing an energy shortage, load-capacity imbalance or other emergency. Although this proceeding is initiated for the purpose of fulfilling the responsibilities of the Commission for reliability of gas and electric service under the Federal Power Act and Natural Gas Act, the resulting information, plans and procedures will serve to aid in carrying out the overall Federal program to assure an adequate energy supply.

The investigation and rulemaking proceeding set out below will be carried out in the spirit of cooperation with a view toward developing plans and procedures for invoking, if necessary, the emergency powers vested in this Commission. The Commission urges those companies or associated groups involved to confer with affected State regulatory authorities and to attempt to exhaust State remedies where practicable. Companies or associated groups seeking Commission assistance under the terms of this Notice should contact the Chief, Bureau of Power, or Chief, Bureau of Natural Gas. The Office of General Counsel is also available.

1. Information has been supplied to the Commission indicating that the availability and reliability of both natural gas and electric power service may be impaired by a shortage of fuel for electric power generation and by limitations on deliverability of gas in some areas.

2. Notice is hereby given, that pursuant to the Administrative Procedure Act, 5 U.S.C. 551, *et seq.* (1967) and Sections 4, 5, 7, 8, 14, 15, 16 and 17 of the Natural Gas Act [52 Stat. 822, 823, 824, 825, 828, 829, 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72, 15 U.S.C. 717c, 717d, 717f, 717g, 717m, 717n, 717o, 717p] and sections 201 through 209, 301, 303, 304, 305, 307, 308, 309 and 311 of the Federal Power Act [49 Stat. 847-856, 858, 859; 16 U.S.C. 824, 824a, 824b, 824c, 824d, 824e, 824f, 824g, 825, 825b, 825e, 825d, 825f, 825g, 825h, 825j] and upon an investigation to be conducted in this docket, the Commission proposes to amend Part 2, General Policy and Interpretations and appropriate parts of its Regulations under the Federal Power Act and its Regulations under the Natural Gas Act, in Chapter I, Title 18, Code of Federal Regulations, to issue rules establishing policies relating to the exercise of the Commission's emergency powers and to prescribe procedures for developing load relief and curtailment plans for natural gas pipeline companies and electric power systems with such plans to be implemented as may be required in certain areas of the United States during any fuel shortage and to meet future emergency requirements arising from short-term and extended gas and electric power shortages. We do not propose any specific terms and conditions in this notice. Rather, we will rely on the responses to this notice in making that determination. The investigation will concern matters of the natural gas and electric utility industries as are necessary to accomplish the stated purpose and shall not be limited to "natural gas" companies and "public utilities" within the meaning of the Natural Gas Act and Federal Power Act, respectively. This investigation shall be national in scope including Alaska and Hawaii.

3. Plans, policies and procedures:

A. Power: By letter of August 27, 1970, to all State Commissions or Governors of States without commissions in the 48 contiguous states, the Commission requested information concerning the following matters, among others: (a) reports of anticipated shortages of electric generating capability, or fuel for electric generation; (b) contingency plans for overcoming supply deficiencies of electricity on file with the state agency, which could encompass priority assignments of available electricity among customer classification, systematic load curtailment, or allocation of supplies among several companies; (c) the emergency powers of any state agency to meet any emergency which may develop in the winter 1970-1971. A majority of the State Commissions have already responded to this request for information. In view of the need for the requested information in reaching a prompt determination as to the propriety of rulemaking or other action on our part in meeting the problem of potential shortages for the current winter season, we are asking that those State Commissions that have not already done so forward the information to us by December 1, 1970, at the latest.

The August 27, 1970 letter also encouraged the State Commissions to work closely with the regional reliability councils and the utilities under their jurisdiction to formulate contingency plans for the coming winter, and requested them to inform the Commission as to the progress being made. We are asking that each State Commission advise us concerning the progress in their respective jurisdictions by December 1, 1970.

By confirming letter of August 25, 1970 to Mr. Floyd L. Goss, Chairman of the National Electric Reliability Council, the Council was requested to expand its program of developing procedures for interregional assistance between utilities to include a schedule of operating plans and procedures for emergency load relief and power transfer between areas of the country. It was recommended that the contingency plans and procedures be reviewed and approved by the state regulatory commissions and be made available to the public. We are asking the National Electric Reliability Council to provide us with a report of its progress in these matters by December 1, 1970.

The information requested in this paragraph (3A) and paragraph 7, *infra*, will enable the Commission to propose adoption of contingency plans and procedures for an adequate and reliable power supply.

B. Natural Gas: Staff's proposal for a new regulation covering a curtailment program for natural gas pipeline companies proposed to be added as a new section 157.22a to Part 157.22a to Part 157, Subchapter E of the Regulations under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations, is attached as Appendix A. All interested parties may respond to the proposal by December 1, 1970.¹

4. As an aid in preparing responses, and as notice to those who may be examined in this investigation, we set forth specific areas of inquiry in the following paragraphs 5, 6, 7 and 8, the purpose of which is to determine the terms and conditions of a rule or rules necessary to avoid or to minimize the consequences of any emergencies that may develop. To the extent that any of the information requested has been previously submitted in the form of correspondence, response to orders or other reports (such as Form 1 and Form 12), duplicate data need not be submitted provided such data is accurately identified by specific page and line numbers or similar suitable references.

5. We call on all jurisdictional and non-jurisdictional production, transmission, or distribution companies individually or through associated groups to submit information to the Federal Power Commission directed toward the determination of the reliability of service, in all of its various ramifications, in both gas and electric power fields. The proceeding is to be phased.

A. Phase I will concentrate on the period from the date of this notice through March 31, 1971. The objective of this phase is to elicit information from those anticipating emergency situations during this phase period. Others need not respond to this phase. Interested parties should respond by December 1, 1970, with such relevant information involving, but not limited to, the categories set forth in the following paragraphs 6 and 7.

B. Phase II will concentrate on the period from the date of this notice through 1975. All electric generation and transmission companies, public, private, or government owned, and all gas transmission and distribution companies will be expected to respond by January 7, 1971, with projections for the period of Phase II with relevant information including but not limited to, the categories set forth in paragraph 6 or 7 *infra*. For purposes of this response, companies and other interested parties may utilize existing institutions, such as reliability councils or power pools or may utilize or form common interest groups.

6. Investigation of the adequacy and reliability of gas supply and deliverability to meet demand will include but not be limited to: (a) adequacy of supplies and delivery capacity; (b) adequacy of plans to meet emergency conditions. For this purpose, information on the following matters should be supplied: (1) present and projected transmission capacities of each pipeline system of all interstate (and intrastate) gas pipeline companies on a peak-day design, peak and off-peak load and average day basis; (2) pipeline companies current planned curtailment programs, including interruptible and firm load shedding priorities; (3) the current interconnectability of pipeline systems as well as feasibility and advisability of further interconnections; (4) whether present pipeline capacity can be meaningfully increased by additional compression facilities; (5) what reserve gas transmission capacity, if any, each pipeline has; (6) the availability of gas from both underground and LNG storage; (7) present maximum hourly and maximum daily capacity of each distribution system under peak load conditions; (8) operating pressures of distributors' systems; (9) increase in pressure permissible under present design; (10) capacity increase resulting from pressure increase; (11) peak and average day, peak and average hourly load requirement, normal and actual degree days for each system; (12) estimates of peak requirements of pipeline and distribution companies identified by classes; i.e., domestic, firm commercial, firm industrial, interruptible; (13) sources of principal supply including own production, producer purchases, gas imports and pipeline supplies; (14) capacity of storage and peak shaving plant maximum hour and maximum day deliverability; (15) alternative and supplementary energy supply and inventory; (16) peak and average day volumes available from each source identified in items 13, 14 and 15; (17) estimate of availability, desirability and cost of alternate and supplementary energy supply sources; (18) distribution companies planned curtailment program, including interruptible and firm load shedding priorities; and (19) other matters affecting reliability of service.

¹ State commissions and other affected State agencies are encouraged to participate.

7. With respect to the period from the date of this notice through 1975, our investigation of the availability and reliability of electric power and energy supply to meet demand will include, but not be limited to: (a) adequacy of capacity resources to serve anticipated loads; (b) availability of adequate fuel supply to serve anticipated energy requirements; (c) adequacy of existing emergency procedures to assure continuity of service during capacity or fuel shortages; and (d) additional measures which may be necessary to assure service continuity during such emergencies. For these purposes, we intend to utilize: (e) information contained in reports on file with the Commission such as Form No. 1 and Form No. 12; (f) data furnished to the Commission by the Regional Reliability Councils in response to Order No. 383-2 issued April 10, 1970; (g) data contained in reports to the Commission in response to the staff questionnaire entitled Fuel Situation Report beginning in June 1970 and monthly thereafter; (h) data submitted in response to the letter dated August 25, 1970 to Mr. Floyd L. Goss, Chairman, National Electric Reliability Council concerning interregional assistance; (i) data submitted in response to the letter dated August 27, 1970 to all State Commissions or governors of states without commissions in the 48 contiguous states relating to fuel supply shortages, load relief and curtailment plans; and (j) data contained in reports of the Technical Advisory Committee of the National Electric Reliability Council.

In addition information to be supplied by and through regional reliability councils², should include, but not be limited to: (1) assessment of adequacy of intraregional and interregional power transfer capabilities to maintain service continuity during power shortages or other emergencies which may possibly occur; (2) problems which adversely affect the ability of the individual utilities, power pools or other utility groups to construct needed generation and transmission facilities in sufficient time to service anticipated loads; (3) extent to which existing generation or transmission capacity is not currently utilized and/or the future use of which is threatened by legal or administrative action resulting from, but not limited to, environmental and aesthetic controversies. Regardless of whether reported to a regional council, by a pool, other utility group or an individual utility, the following information is to be supplied on an individual utility basis: (4) estimated amounts of fossil fuel to be used by years through 1975 by types including gas requirements for each heating season; (5) extent to which alternate fuels could be used; (6) cost of alternate fuels compared to cost of fuel in current use on the basis of (a) spot purchases, and (b) longer term contract purchases; (7) anticipated major changes in methods of fuel transport, if any; (8) legal restrictions on usage of various types of fuel; (9) type, use and adequacy of fuels kept in storage for use in the event of interruption of supply of normal fuel; (10) normal operating fuel reserves stated in terms of bulk (tons, barrels, etc.) and time (20 days, 30 days, etc.); (11) the total magnitude in kilowatts of interruptible load, subdivided into major categories of contractual limitations expressed in hours per day and hours per month; (12) other significant matters affecting reliability and adequacy of service.

8. The public interest requires that the volumes of proved natural gas reserves, if any, held by producers in any area and not contracted to pipelines or direct customers be reported in this investigation in order to facilitate exercise of the Commission's emergency powers, where appropriate, to permit interstate sales for resale under Section 7(e). Included in this inquiry is company use, warranty gas and gas committed to any purchaser for which there is excess of deliverability within either Phase I or Phase II of this Notice. Producers will be called upon by an investigating officer to make this information available (including any underlying data requested) on an individual company basis. This information may thereafter be composited for report by the investigating officer pursuant to paragraph 11. Information revealed to the Staff shall be treated as confidential information without public disclosure under the provisions of Section 8(b) of the Natural Gas Act [15 U.S.C. 717g] and the Freedom of Information Act [5 U.S.C. 552(b)(4)]. Compliance with the order shall not constitute nor be construed as a waiver of any claim of privilege by any producer.

9. The times and places for public hearings, if any, shall be specified by the Secretary. Hearings may be held for the purpose of allowing persons to state their views in lieu of filing written comments.

² Data is requested from all segments of the industry including investor owned utilities, those operated by the State and Federal governments or political subdivisions, agencies or instrumentalities thereof, and cooperatively owned associations, all reporting to and coordinated by regional councils. It is anticipated that power pools and other utility groups that coordinate their planning and operations will report the additional coordinated data to their respective councils. Individual utilities that are not members of pools will, of course, report the additional information directly to their regional councils.

Any statements taken at a public hearing announced by the Secretary will be reduced to written form and will be considered together with the filed comments in this docket. Any party who wishes to make an oral statement in lieu of filing written comments should file a request with the Secretary at or before such time as the Secretary may require in his notice of public hearing. The request shall state the name, title, and mailing address of the person, the interest he has or represents in this proceeding, and a waiver of the right to file written comments pursuant to paragraph 10, *infra*. Denial of an oral presentation means only that the person should file written comments if he wishes to be heard. Persons whose request is granted will be notified by mail of the date and place of hearing and time allotted for their presentation.

10. Any interested person may become a party to this proceeding by filing a response pursuant to this paragraph with the Secretary on or before the dates specified in paragraphs 3A and 3B *supra* or at such other times as the Secretary may require.

Responses in writing concerning these proposed rulemakings shall be filed with the Secretary of the Federal Power Commission, 441 G Street, N.W., Washington, D.C. 20426. Any submittal shall state the name, title, mailing address of the person or persons to whom communications concerning this matter should be addressed, the interest in this proceeding, and whether the person filing requests a conference at the Federal Power Commission. An original and fourteen copies of all submittals shall be filed with this Commission and with each affected State regulatory agency. The Commission will consider all such written submittals, and any statements taken pursuant to paragraph 9, *supra*, and any report filed by an officer pursuant to paragraph 11, *infra*, before issuing an order in this proceeding.

11. For the purposes of this investigation James R. Tourtellotte, John W. Williams and Paul L. Brady, Staff Attorneys, are each hereby designated an officer of this Commission and empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant and material to the inquiry, and to perform all other duties in connection therewith as prescribed by law. These officers, or any of them, will preside at hearings provided for in paragraph 9, *supra*, unless otherwise provided by Commission order. However, nothing in paragraph 9, *supra*, shall limit the investigatory power delegated in this paragraph 11 or require that all depositions or other information obtained by subpoena duces tecum be publicly conducted or filed as a submittal in this docket. See 15 U.S.C. 717m, 717n. Any report to the Commission made by an officer prior to the Commission's decision in this rulemaking will be filed as a submittal pursuant to paragraph 10, *supra*.

12. The policy statement and notice of investigation and rulemaking are separable. Termination or stay of any one by order of this Commission or otherwise shall not affect any other proceeding incorporated herein.

13. This investigation and rulemaking will be conducted within the limits of the jurisdictional powers of the Commission.

14. The Secretary shall cause prompt publication of this notice to be made in the Federal Register.

15. Due to the urgency of the national interest in an adequate and reliable gas and electric supply it is considered necessary to expedite this matter. Therefore, good cause exists for shortening the notice requirements set forth in Section 1.19 of our Rules in this instance.

By direction of the Commission.

Commissioners Carver and Brooke dissenting filed separate statements appended hereto.

GORDON M. GRANT,
Secretary.

Carver, Commissioner, *dissenting*:

The promulgation of this order is symbolic of a frustration not infrequently experienced by this body in coming to terms with its jurisdictional limitations. I think it preferable to recognize the limitations and live with the frustrations rather than to embark upon an investigatory adventure in the name of a vague rule-making objective, one that is *ultra vires* in law, unsound in concept and procedurally defective in terms of both our basic charter statutes and other legal requirements.

My reservations and objections have been developed and expressed in considerable detail during the considerations leading to today's action. Having failed to persuade my colleagues in these premises, no useful purpose would be

served by their further elaboration here. In dissent, however, I must at least advert to the misgivings I have about the ultimate usefulness of what is being undertaken and its effect upon our relations with sister government agencies and the important industries we regulate.

JOHN A. CARVER, Jr.,
Commissioner.

Brooke, Commissioner, *dissenting*:

While conceding the Commission's authority to conduct the proposed investigation, I have serious reservations whether the current emergency provisions of the Federal Power and Natural Gas Acts empower the Commission to implement the type of "load relief or curtailment" plans and procedures expected to evolve from the inquiry.

Rather, it appears that the majority contemplates assuming, through the device of rule-making, broad powers of electric power and natural gas allocation not apparent to me in "the emergency powers vested in this Commission."

Tremendous and growing demands have strained the capacity of both the electric power and natural gas industries to provide adequate and reliable service to all classes of customers, and, indeed, the Commission has mandated responsibilities for the reliability of electric and natural gas service.

However, in exercising these responsibilities in this instance, it is my opinion that the Commission's emergency powers do not extend to enforcing "load relief" or "load curtailment," that the rule-making is procedurally defective, and that the power to allocate energy should properly reside in a more centralized agency.

The inquiry would provide the basis "to issue rules establishing policies relating to the exercise of the Commission's emergency powers and to prescribe procedures for developing load relief and curtailment plans for natural gas pipeline companies and electric power systems with such plans to be implemented as may be required in certain areas of the United States during any fuel shortage and to meet future emergency requirements arising from short-term and extended gas and electric power shortages."

The vagueness of such wording as "implemented as may be required" and "any fuel shortage" is so broad as to be virtually open to any interpretation and abuse of administration. There is no attempt to define even rudimentary criteria or standards. Nor is there any explanation of "the overall Federal program" the contingency plans allegedly will aid.

I find only two sections of the Federal Power Act and one section in the Natural Gas Act which speak of emergency actions. Neither Sections 202 (c) nor 202 (d) of the Power Act extend to curtailments. Likewise, Section 7 (c) of the Natural Gas Act is deficient of the requisite authority.

The majority blithely ignores the stipulation of the Administrative Procedure Act that a rule-making notice "shall include either the terms or substance of the proposed rule or a description of the subjects and issues involved" by stating, "We do not propose any specific terms and conditions in this notice. Rather, we will rely on the responses to this notice in making that determination."

The sole concession to the APA is the attachment of "Appendix A—FPC Staff Proposal," relating to emergency procedures for natural gas curtailments. The Appendix enumerates "Priorities of Service" for several classes of customers, but Staff fails to describe the mechanism for implementing whatever program may evolve, what types of "emergency" situations would trigger load curtailment, or who would even determine the existence of emergency.

The electric power industry doesn't even have a Staff target as the departure for its comments, but was advised that information requested pursuant to Paragraphs 3A and 7 "will enable the Commission to propose adoption of contingency plans and procedures for an adequate and reliable power supply." Here again, the rule-making is completely devoid of conformity with the Administrative Procedure Act.

Of even greater significance to me is the fact that the rule-making may be misinterpreted as a step backward from the excellent voluntary co-operation established in recent years with all segments of the pluralistic electric power industry to improve and enhance service reliability on a regional basis. The nine electric reliability councils, plus the National Electric Reliability Council, have demonstrated remarkable progress toward developing strong intra-regional and inter-regional generation and transmission capacities to meet emergency situations.

Contingency planning to assure consumers reliable supplies of natural gas and electrical energy has become a matter of national urgency and priority. There are cross-currents involving many issues and many agencies at all levels of government. The availability of fuels, especially "clean" fuels of the low-sulfur variety, and environmental concerns, for instance, are two major influences on the adequacy of natural gas and power supplies. It is necessary that the co-operation of key agencies with considerable expertise and statutory responsibilities in these areas be sought in formulating a basic program, not as respondents to a rule-making but on a participant basis.

I feel that the Office of Emergency Preparedness would be the appropriate instrumentality at this time to coordinate development of a broad contingency procedure for allocating natural gas and electric power. Participants would, of course, be those agencies most concerned with fuels sufficiency, environmental quality and national economic policy, with provisions for input by the industries affected, state agencies and consumer groups.

It may well be that this Commission will, as a matter of national policy, ultimately be designated the task of formulating and implementing emergency load-curtailment programs for the natural gas and electric power industries within statutory guidelines. However, I must dissent to the instant proceedings because I believe the broad powers sought lack legal sanction in both the Federal Power and Natural Gas Acts. Proper amendments to both Acts would remedy this deficiency.

ALBERT B. BROOKE, Jr.,
Commissioner.

APPENDIX A—FPC STAFF PROPOSAL

§ 157.22a Priorities of Service in the Event of Inadequate Supply and/or Capacity to Meet the Requirements of All Customers

(a) Each pipeline company subject to the Commission's jurisdiction shall observe the priorities of service to the extent appropriate in accordance with the following guidelines:

I. Highest service priority: consumption for essential services, national defense and domestic use, and gas storage therefor.

II. Firm service commitments in addition to those embraced under I above.

III. Interruptible service commitments.

(1) With respect to III above, the service curtailments shall be in accordance with priorities established in existing tariffs and/or service agreements for both direct and resale customers.

(2) With respect to II above, priorities established should be in accordance with the following order:

(i) Commercial users.

(ii) Industrial users.

(b) In effecting curtailments under these provisions, appropriate consideration shall be given to the notice period available prior to curtailment and to the customers' ability to use alternate fuels on both long term and short term bases;

(1) With respect to curtailments of service either to direct customers or to resale customers for use in electric generating plants, the extent of curtailment shall be determined so that the resulting curtailment of electric service would correspond to the gas service curtailment if the same priorities were observed.

(2) With respect to curtailments of partial requirements customers, consideration shall be given to the ability of other supplier(s) to replace all or part of the service to be curtailed. (It is contemplated hereby that curtailments to partial requirements customers may extend further than curtailments to entire requirements customers if the other supplier(s) can supply all or part of the load curtailed.)

(3) Non-concurrent exchange gas deliveries shall be interrupted on the same basis as gas sold.

UNITED STATES OF AMERICA, FEDERAL POWER COMMISSION

[18 CFR Part 2]

Before commissioners: John N. Nassikas, Chairman; Albert B. Brooke, Jr., Pinkney Walker, and Rush Moody, Jr.
Reliability of Electric and Gas Service

ORDER UPDATING NATIONWIDE INVESTIGATION, ISSUED SEPTEMBER 12, 1972

In our notice of investigation and proposed rulemaking with respect to developing emergency plans which was issued in this docket on November 4, 1970, we sought with regard to the natural gas industry to elicit information so as to enable us to assess the adequacy and reliability of the gas supply and deliverability to meet consumer demand for the oncoming winter season and four winters following. Evidence of anticipated curtailment of necessary service impelled the Commission to take affirmative steps in the public interest to obtain reliable factual information regarding the sources of available gas and the facilities existing and planned to deliver such gas to meet consumer demands and to determine the terms and conditions of a rule or rules necessary to avoid or minimize the consequences of any emergencies that may develop. Amendments of the Commission's regulations proposed in this docket are still under Commission consideration.

Pursuant to this action and in the implementation thereof Commission investigatory officers designated in the notice by letter dated November 20, 1970, directed 75 gas producers, representing all of the large gas producers whose individual jurisdictional sales of natural gas totalled in excess of 10 million Mcf annually, to respond thereto on forms designed to elicit the information necessary for Commission consideration. The responses were designed to cover separately the two time frames set forth in the notice.

The responses received pursuant to the said letter were particularly useful to the Commission in enabling it to assess problems which have arisen as a result of shortages in the gas supply and to take steps designed to meet them.

However, the industry has been unable to meet consumer demands. This has been amply evidenced by the filing pursuant to Order No. 431 by 27 of the natural gas pipeline companies subject to Commission jurisdiction of curtailment proposals. To enable the Commission to supplement its information, it is essential in the public interest for a better understanding of the problems prevailing in the industry that data almost identical in form to that previously supplied be submitted for evaluation and appropriate action. For the purpose of this continued investigation the current data should relate also to two time periods, one as of December 31, 1971, and the other as of June 30, 1972. Accordingly,

It is ordered that:

1. The investigation initiated by notice issued on November 4, 1970, in Docket No. R-405 be updated by the filing by the natural gas companies listed in Appendix A of responses to the questionnaires set forth in Appendix B, and that such responses be submitted in hand to Mr. Lawrence R. Mangen at Room 2071, 441 G Street, N.W., Washington, D.C. in a sealed envelope plainly marked "CONFIDENTIAL" on or before October 6, 1972. However, it should be noted that certain minor geographic changes have been made to the questionnaires separating the Federal Offshore Zones from State Offshore Zones. Any questions regarding said forms should be directed to Mr. Mangen, who may be reached by telephone at 202-386-6172.

2. For the purposes of this investigation no responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b) (4) and (9). It should be noted that unlike the previous filing all responses will be made at the Federal Power Commission Offices in Washington, D.C.

3. The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

[SEAL]

KENNETH F. PLUMB,
Secretary.

APPENDIX A

Amerada Hess Corporation
 American Petrofina Co. of Texas
 Amoco Production Company
 Anadarko Production Company
 Ashland Oil and Refining Company
 Atlantic-Richfield Company
 Austral Oil Co., Inc.
 Aztec Oil and Gas Company
 Bass Enterprises Production Company
 Belco Petroleum Corporation
 Beta Development Company
 Cabot Corporation
 California Co., Div. Chevron Oil Company
 Champkin Petroleum Company
 Chevron Oil Co.
 Cities Service Company
 Cities Service Oil Company
 Clinton Oil Company
 Coastal States Gas Producing Company
 E. Cockrell, Jr.
 Colorado Oil and Gas Corporation
 Coltexo Corporation
 Columbia Gas Development Corporation
 Continental Oil Company
 Edwin L. Cox
 Diamond Shamrock Corporation
 Dorchester Gas Production Company
 Exchange Oil and Gas Company
 Forest Oil Corporation
 General American Oil Co. of Texas
 Getty Oil Company
 Gulf Oil Corporation
 Hassie Hunt Trust
 Helmerich & Payne, Inc.
 J. M. Huber Corporation
 Humble Oil and Refining Company
 Hunt Oil Company
 The Jupiter Corporation
 Kerr-McGee Corporation

Lone Star Producing Company
 Louisiana Land and Exploration Company
 LVO Corporation
 Mapeco Production Company
 Marathon Oil Company
 Mobil Oil Corporation
 Monsanto Company
 Natural Gas and Oil Corporation
 Northern Natural Gas Prod. Company
 Ocean Drilling & Exploration Company
 Petroleum Inc.
 Phillips Petroleum Company
 Pioneer Production Corp.
 Plaeid Oil Company
 Pennzoil Produicing Company
 Pennzoil United, Inc.
 Pubco Petroleum Corporation
 The Rodman Corporation
 Shell Oil and Gas Company
 Signal Oil and Gas Company
 Skelly Oil Company
 Sohio Petroleum Company
 Southern Natural Gas, Jt. Venture
 Southern Union Gathering Company
 Southern Union Production Company
 Suburban Propane Gas Corp.
 Sun Oil Company
 Tenneco Oil Company
 Tennessee Gas Supply Co.
 Terra Resources Inc.
 Texaco Inc.
 Texas Gas Exploration Corporation
 Texas Oil and Gas Corporation
 Transocean Oil, Inc.
 The Superior Oil Company
 Union Carbide Petroleum Corporation
 Union Oil Company of California
 Union Pacific Railroad Co.
 Union Texas Petroleum
 Warren Petroleum Corporation

APPENDIX B

Question A. Will you please state your name, the name of your company and your position with the company?

Question B. Are you authorized by your company to furnish the information requested in the following interrogatories?

Question C. If not, will you please state the name or names of the official or officials of your company who have such information?

Question D. Do you understand that the Investigating Officer will combine the information obtained from you with information obtained from others and file a composite report in the public files in Docket No. R-405?

CERTIFICATION

I certify that the information hereon is correct to the best of my knowledge.

Question E. Will you please state the net working interest volumes, including associated royalty interest volumes, of proved recoverable reserves of non-associated natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1971, for the areas hereinafter

designated? (For the purpose of questions E-J, the term "proved reserves" is used as defined by the Committee on Natural Gas Reserves of the American Gas Association and such definition is set forth on Appendix B-8 of this letter. The volumes held "available for sale" in questions E-J are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, not company use-warranty gas or not company use-fuel and feedstock.)

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
 - a. Federal
 - b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
 - a. Federal
 - b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas?²
 - a. Federal
 - b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question F. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1971 for the areas *hereinafter designated*?

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
 - a. Federal
 - b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
 - a. Federal
 - b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?

25. Eastern Oklahoma?
 26. Pennsylvania?
 27. Texas Railroad District No. 9?
 28. Texas Railroad District No.
 1. ?
 29. Texas Railroad District Nos.
 8, 8A, 7B and 7C?
 33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas? ⁴
 5 and 6?
 31. Texas Railroad District Nos.
 1, 2, 3 and 4?

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question G. Will you please state the *total* net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated and of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1971, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
 2. Northern Arkansas? ¹
 3. Southern Arkansas?
 4. California?
 5. Offshore California? ²
 a. Federal
 b. State
 6. Colorado?
 7. Illinois?
 8. Indiana?
 9. Kansas?
 10. Kentucky?
 11. North Louisiana?
 12. South Louisiana?
 13. Offshore Louisiana? ²
 a. Federal
 b. State
 14. Michigan?
 15. Mississippi?
 16. Montana?
 17. Nebraska?
 18. Northwest New Mexico?
 19. Southeast New Mexico?
 20. New York?
 21. North Dakota?
 22. Ohio?
 23. Oklahoma Panhandle area? ³
 24. Oklahoma Anadarko area?
 25. Eastern Oklahoma?
 26. Pennsylvania?
 27. Texas Railroad District No. 9?
 28. Texas Railroad District No. 10?
 29. Texas Railroad District Nos. 8, 8A,
 7B and 7C?
 30. Texas Railroad District Nos. 5 and
 6?
 31. Texas Railroad District Nos. 1, 2, 3
 and 4?
 32. Offshore Texas? ²
 a. Federal
 b. State
 33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question H. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of June 30, 1972, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? ¹
3. Southern Arkansas?
4. California?
5. Offshore California? ²
 - a. Federal
 - b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? ²
 - a. Federal
 - b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? ³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? ²
 - a. Federal
 - b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question I. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degree Fahrenheit, that your company had available for sale as of June 30, 1972, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? ¹
3. Southern Arkansas?
4. California?
5. Offshore California? ²
 - a. Federal
 - b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? ²
 - a. Federal
 - b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? ³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?

30. Texas Railroad District Nos. 5 and 6?
 31. Texas Railroad District Nos. 1, 2, 3 and 4?
 32. Offshore Texas?
 a. Federal
 b. State
 33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas?
 38. What is the total of the volumes furnished in response to questions 1-37?

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question J. Will you please state the *total* net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated and of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of June 30, 1972, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
 2. Northern Arkansas? ¹
 3. Southern Arkansas?
 4. California?
 5. Offshore California? ²
 - a. Federal
 - b. State
 6. Colorado?
 7. Illinois?
 8. Indiana?
 9. Kansas?
 10. Kentucky?
 11. North Louisiana?
 12. South Louisiana?
 13. Offshore Louisiana? ²
 - a. Federal
 - b. State
 14. Michigan?
 15. Mississippi?
 16. Montana?
 17. Nebraska?
 18. Northwest New Mexico?
 19. Southeast New Mexico?
 20. New York?
 21. North Dakota?
 22. Ohio?
 23. Oklahoma Panhandle area? ³
 24. Oklahoma Anadarko area?
 25. Eastern Oklahoma?
 26. Pennsylvania?
 27. Texas Railroad District No. 9?
 28. Texas Railroad District No. 10?
 29. Texas Railroad District Nos. 8, 8A,
 7B and 7C?
 30. Texas Railroad District Nos. 5 and
 6?
 31. Texas Railroad District Nos. 1, 2, 3
 and 4?
 32. Offshore Texas? ²
 - a. Federal
 - b. State
 33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23–25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE¹[Million ft³ at 14.73 lb/in²a, 60° F.]

State	Volumes as of December 31, 1971			Volumes as of June 30, 1972		
	Non-associated	Associated-dissolved	Total	Non-associated	Associated-dissolved	Total
Alaska.....						
Arkansas: ²						
Northern.....						
Southern.....						
California:.....						
Offshore California: ³						
(a) Federal.....						
(b) State.....						
Colorado.....						
Illinois.....						
Indiana.....						
Kansas.....						
Kentucky.....						
Louisiana:.....						
North.....						
South.....						
Offshore: ³						
(a) Federal.....						
(b) State.....						
Michigan.....						
Mississippi.....						
Montana.....						
Nebraska.....						
New Mexico:.....						
Northwest.....						
Southwest.....						
New York.....						
North Dakota.....						
Ohio.....						
Oklahoma: ⁴						
Panhandle.....						
Anadarko.....						
Eastern.....						
Pennsylvania.....						
Texas:.....						
Railroad District No. 9.....						
Railroad District No. 10.....						
Railroad District Nos. 8, 8A, 7B, 7C.....						
Railroad District Nos. 5, 6.....						
Railroad District Nos. 1, 2, 3, 4.....						
Offshore: ³						
(a) Federal.....						
(b) State.....						
Utah.....						
Virginia.....						
West Virginia.....						
Wyoming.....						
Miscellaneous ⁵						
Total.....						

¹ Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contracts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contracts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, proved reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities".

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale" are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² Arkansas is divided between north and south by base line separating townships north and south.

³ Offshore areas shall be measured from the coastline seaward.

⁴ Oklahoma is divided between eastern and western Oklahoma by the central Oklahoma Indian meridian separating ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the panhandle meridian separating ranges E and W.

⁵ Includes Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee, and Washington.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY,
Washington, D.C., March 7, 1973.

Hon. JOHN N. NASSIKAS,
Chairman, Federal Power Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: The February 22, 1973, release of the Federal Power Commission (No. 19013) reports that total uncommitted natural gas reserves available for sale in the lower 48 states "as reported by 79 large gas producers declined from 4.6 trillion cubic feet at the end of 1969 to 3.4 trillion cubic feet by mid-1972"—a decline of 26 percent. The release indicates that the aggregate figures were compiled from individual company responses pursuant to FPC order.

Congress is deeply concerned about the present unavailability of natural gas and has been conducting continuing hearings on its causes and extent. At my request, the Federal Trade Commission also commenced an investigation of the reliability of natural gas reserve data. I understand that the Commission's effort to obtain internal company reserve data has been frustrated by the refusal of the major producers to comply with Commission process.

The fact that the Federal Power Commission has obtained important information, heretofore unavailable to the Congress and the FTC, could represent a significant breakthrough in the quest for reliable and verifiable natural gas reserve estimates. Would you, therefore, kindly provide the Federal Trade Commission and myself with the following:

1. The questionnaire or other request for information sent to the 79 producers.
2. A description of the procedure used to verify the data supplied by the producers.
3. An estimate of the proportion of domestic natural gas reserves available for sale controlled by the 79 producers.
4. An analysis of the 26 percent decline in reserves showing the amount of decline resulting from sales and from write-downs and other adjustments on an aggregate basis and for each of the 79 producers.
5. For each producer, identify its pipeline customers and the amounts and prices of gas sold for the 1970-mid-1972 period.
6. With regard to the 3.4 trillion cubic feet of natural gas available for sale in mid-1972, specify the uncommitted reserves reported for each of the 79 producers.

Your prompt attention to this matter will be appreciated.

Sincerely,

PHILIP A. HART,
Chairman.

FEDERAL POWER COMMISSION,
Washington, D.C., March 20, 1973.

Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN HART: Receipt is acknowledged of your letter of March 7, 1973, requesting certain information relating to the material supporting the February 22, 1973 release of the Federal Power Commission (No. 19013) on uncommitted gas reserves available for sale as reported by 79 large producers.

This report is a part of the F.P.C.'s ongoing effort to evaluate the availability of gas supplies for the nation's consumers. In addition to the uncommitted reserves study, the following reserve information programs are currently being conducted at the F.P.C.

1. As part of the National Gas Survey an independent reserve analysis program is nearly finished. This program is which independent reserve estimates were made for all fields containing reserves larger than 400 billion cubic feet of gas plus a randomly selected sample of the smaller fields as developed by professional statisticians.

Standard methods and procedures in making these estimates were used by experienced professional personnel of the F.P.C., United States Geological Survey and U.S. Navy, after extensive training and review of principles, techniques and procedures. The results of this study are as of December 31, 1970. The final report is to be completed within 30 to 45 days. A detailed explanation of the methods used is attached as Appendix A.

2. The F.P.C. Form 15, Annual Report of Gas Supply, as planned during its original proposal, has now been expanded. All pipeline companies required to file must now report all basic reservoir data behind each reservoir reserve estimate

reported. In addition, all deliverability information by well must be reported by each of the above companies. This data, for the year 1972, must be reported by end of year 1973. Future filings will be required by April 1, of each succeeding year. The preferred filing form for this data is magnetic tape, a filing method which will greatly facilitate data analysis.

3. The F.P.C. is currently developing a Regulatory Information System in which information such as the Form 15 mentioned above will be placed. This system will be a retriever-oriented computer data bank which will allow instant retrieval of information. We are currently seeking funds to expand our data-gathering ability. Our current computer configuration is much too small to handle the system as planned.

Item 1 of your letter: A copy of the questionnaire which was sent to the 79 producers which you requested is attached. (Appendix B).

Item 2: While we have not had the resources available to make an item-by-item verification of the data supplied by the producers, our staff did check reports of activities in the various areas of the country as well as our own files on reserve data from Form 15, Certificate Applications and the expertise of our staff as to the reasonableness of the magnitude of the information supplied. This procedure did reveal one company which had misstated its reserves by using the wrong order of measurement, i.e. millions of cubic feet (mmcf) where they should have used thousands of cubic feet (mcf) as required by the order.

Further, each company filing was required by the order to attest to the correctness of the data filed. Under the provisions of the Natural Gas Act, Sec. 21b "Any person who willfully and knowingly violates any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this act, shall, in addition to any other penalties provided by law, be punished upon conviction thereof by a fine of not exceeding \$500 for each and every day during which such offense occurs [52 Stat. 833 (1938); 15 U.S.C. 717t]."

Item 3: We do not have the information available to us of all domestic reserves available for sale but the 79 producers sold 11.5 trillion feet of gas in 1970¹ which is 79.9%¹ of gas sold in interstate commerce and 52.5% of the marketed production of gas in the U.S. in 1970 according to Table 2, P. 799 of the Minerals Yearbook, Volume 1, Metals, Minerals and Fuels, 1970 published by the U.S. Department of the Interior.

Item 4: Because the data were reported on a geographically aggregated basis, and presented in terms of total volumes, it is not possible to segregate the information you requested. However, attached as Appendix C is the change in gas available for sale by areas during the report periods.

Item 5: Attached as Appendix D is the information you requested for the year 1970.¹

The 1971 and 1972 data are not yet available.

Item 6: Under the provisions of the order, page 2, section 2, the material you have requested is confidential in its disaggregated form in accordance with the provisions of Section 8 b of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (a).

I hope the enclosed information will assist you in your analysis of the energy shortage.

Sincerely,

THOMAS J. JOYCE,
Chief, Bureau of Natural Gas.

[Appendixes retained in Subcommittee files.]

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY,
Washington, D.C., June 11, 1973.

Hon. JOHN N. NASSIKAS,
Chairman, Federal Power Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: The Sunday edition of the *Washington Post* reported the attempted destruction, apparently by high ranking Commission personnel, of company-by-company data provided by 79 large natural gas producers respecting total uncommitted natural gas reserves available for sale in mid-1972.

You will recall that on March 7, 1973, you were requested to provide a substantial amount of such data to the Subcommittee in connection with its investiga-

¹ Extracted and/or computed from the F.P.C. Publication S-217, *Sales by Producers of Natural Gas To Interstate Pipeline Companies 1970*. It should be noted that the lists of Major Producers changes slightly from year to year based on the amount of gas that they produce.

tion of the nature and extent of competition and concentration of control of natural gas reserves within the natural gas producing industry. That letter also requested you to make such material available to the Federal Trade Commission in connection with its investigation of the accuracy and reliability of aggregated natural gas reserves as reported by the American Gas Association.

Mr. Thomas Joyce of your staff responded, declining to provide the requested information and citing for support the Freedom of Information Act and the confidentiality section of the Natural Gas Act. You were then requested by the Subcommittee to appear with such material at hearings scheduled for June 6 and 7, later postponed to June 26.

If the newspaper report is correct, the attempted destruction of such material alone raises serious questions respecting propriety, motivation, as well as efficacy of FPC regulation. The on-again-off-again nature of the attempted destruction which apparently prevented use of such data by the Commission's Office of Economics in testimony opposing a 73 percent increase in natural gas prices at the wellhead (which the Commission approved last week), raises even more serious questions. The report of the attempted incineration in light of two requests outstanding by this Subcommittee for the material dictates the need for a full exploration and explanation of all events relating to the use and disposition of this data and a full public accounting by all responsible.

Therefore, I have instructed the staff of the Subcommittee to commence an immediate investigation, to interview privately all FPC personnel and members, and to examine all documents and files necessary or appropriate to ascertain all facts bearing on this question.

Your cooperation and your full assistance to the staff will be greatly appreciated.
Sincerely,

PHILIP A. HART,
Chairman.

FEDERAL POWER COMMISSION,
Washington, D.C., June 12, 1973.

Hon. PHILIP A. HART,
*Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: With respect to your letter of June 11, 1973, concerning the alleged destruction of certain uncommitted natural gas reserve data, we would welcome review by the Subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee.

As soon as these allegations came to my attention, I immediately initiated an investigation, on or about May 21, 1973, by our Bureau of Natural Gas and our Executive Director, to determine whether the destruction of the subject documents had in fact occurred. It was reported to me forthwith that the destruction had not been consummated. I then directed that the documents be restored and be retained in the custody of the Bureau of Natural Gas, as set forth in our order of September 12, 1972, in Docket No. R-405. That order updated our nationwide investigation of uncommitted gas reserves and stated that "individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (9)."

In order to ascertain the facts surrounding the attempted destruction of this company information, and to determine if the above Commission order has been complied with, insofar as such data is "maintained in confidential status," I have requested our Executive Director to make an independent investigation of the facts and chronology, as relevant to such allegations. I will furnish you and your Subcommittee and its staff a report of this investigation.

Your letter of June 11, 1973, indicated that you had "instructed the staff of the Subcommittee * * * to interview privately all FPC personnel and members" and to "examine all documents and files" concerning the attempted destruction of such material. We will, of course, cooperate fully with such review. In order that there be a full public accounting of the circumstances surrounding the attempted destruction, a stenographic transcript will be taken for any interviews by your staff of Commission personnel and members. Our Office of General Counsel will participate in such interviews. I suggest your staff make arrangements for the necessary interviews with Mr. Webster P. Maxson, Executive Director, room 9106, telephone No. 386-3504.

I believe these procedures will serve the interests of your Subcommittee and the obligation of this Commission to investigate the full circumstances relating to the matters here involved without unnecessarily impeding the administration of the Congressionally delegated duties of this Commission. During the course of such review, you and your staff must recognize that the Federal Power Commission must continue to discharge its duties to the Nation's gas and electric consumers, as stated in the Natural Gas and Federal Power Acts.

Sincerely,

JOHN N. NASSIKAS,
Chairman.

[Enclosure retained in subcommittee files.]

FEDERAL POWER COMMISSION,
Washington, D.C., June 14, 1973.

Hon. PHILIP A. HART,
*Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I understand that a meeting was held on June 12, 1973, between Messrs. Bangert and Nash of your Subcommittee staff and Mr. Maxson and Mr. Forquer, Executive Director and General Counsel, respectively, of the Federal Power Commission, to discuss my June 12, 1973 reply to your letter of June 11, 1973.

As I indicated to you in my June 12 letter, the Commission believed that a full public accounting and disclosure was required of the facts and circumstances surrounding the disposition of certain uncommitted natural gas reserve data. Your staff has indicated that your Subcommittee does not desire a stenographic transcript for the public record of the interviews concerning this disposition and that our Office of General Counsel should not participate at such interviews. The Commission will cooperate with your private investigation on that basis and agrees to your suggested procedure.

The Commission continues to believe that it has both a duty and responsibility to the public to make a full disclosure of the facts and circumstances of the disposition of this confidential data. Upon completion of the Commission's independent investigation of the facts and circumstances relating to these matters, subject to review, we will make a full public disclosure and accounting of our investigation.

I would suggest that your staff make arrangements for the necessary interviews, to be held in private without transcript as you have requested, with Mr. Webster P. Maxson, Executive Director, Room 9106, telephone No. 386-3504.

Sincerely,

JOHN N. NASSIKAS,
Chairman.

FEDERAL POWER COMMISSION,
Washington, D.C., June 18, 1973.

Hon. PHILIP A. HART,
*Chairman, Subcommittee on Antitrust and Monopoly,
Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This will respond to your letter of May 18, 1973, as supplemented by your May 22, 1973 letter, concerning hearings before the Senate Antitrust and Monopoly Subcommittee on June 26 and 27, 1973.

The Federal Power Commission members will be present, as you requested, at 10:00 a.m. on June 26, 1973.

As part of your May 18, 1973 letter, you requested that the Commission furnish your Subcommittee at the June 26 hearing "with detailed information producers gave the Commission which showed the concentration of certain reserves and the amounts controlled by the major producers." To comply with the request of your Subcommittee and to serve its legislative purposes, the staff has prepared and the Commission has determined this day to release to your Subcommittee, partially composited, uncommitted reserve data to identify the concentration ratios for the top four, eight and twenty producers by production area, without identifying the individual producer. Such data is reproduced in the Table enclosed herein, entitled, United States Uncommitted Reserves Percent by Areas by Largest Producers.

We regret that we cannot disclose the detailed information submitted by individual producers pursuant to our order issued September 12, 1972, updating the nationwide investigation of proved natural gas reserves available for sale in Docket No. R-405. The Commission's order of September 12, 1972, stated that:

2. For the purposes of this investigation no responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (9).***

The results of that investigation were released to the public by the staff of the Federal Power Commission on February 22, 1973 (FPC Press Release No. 19013), and signed by the Chief of the Bureau of Natural Gas. The staff report identified the total uncommitted natural gas reserves available for sale by the 79 large producers as of December 31, 1971 and June 30, 1972, which data was further identified by producing area and segregated by non-associated and associated-dissolved natural gas volumes.

Upon review, the Commission has determined that its September 12, 1972, order assuring confidentiality of this information cannot be abrogated by the Commission. We believe it is our obligation to assure that the confidentiality of this data is maintained at this time and consequently should not be provided for public release as you have requested. Our conclusion is based upon our view of the obligations undertaken in the September 12, 1972 order, the authority of Section 8(b) of the Natural Gas Act and the Freedom of Information Act, particularly Sections 552(b)(4) and 552(b)(9), and finally upon review of the matter by the Office of General Counsel.

Section 8(b) of the Natural Gas Act provides:

The Commission shall at all times have access to and the right to inspect and examine all accounts, records, and memoranda of natural-gas companies, and it shall be the duty of such natural-gas companies to furnish to the Commission, within such reasonable time as the Commission may order, any information with respect thereto which the Commission may by order require, including copies of maps, contracts, reports of engineers, and other data, records, and papers, and to grant to all agents of the Commission free access to its property and its accounts, records, and memoranda when requested to do so. *No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books, records, data, or accounts, except insofar as he may be directed by the Commission or by a court.* [Emphasis supplied]

The Freedom of Information Act, Title 5 of the United States Code, provides in Section 552(b) exceptions to the public disclosure requirements in terms as follows:

This section does not apply to matters that are—

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(9) geological and geophysical information and data, including maps, concerning wells.

The necessity for maintenance of the confidentiality of this proprietary information, as provided in our order dated September 12, 1972, assuring confidentiality, is grounded upon several public policy considerations. There would be an inhibiting effect upon future exploration for natural gas reserves since speculators and competitors could equally benefit with those companies willing to make geological and geophysical expenditures. A competitor would particularly benefit from knowledge of another producer's uncommitted reserves for particular locations, especially in highly competitive areas. Nor is it fair to sellers of gas to disclose such trade secrets to potential buyers with whom they may negotiate for the sale of gas. Disclosure of this data at this time on an individual company basis would deprive the producers involved of a valuable property right without due process and just compensation. It would also have an impact upon our ability to obtain similar information voluntarily from industry in the future if our orders securing information on a confidential basis are countermanded by Congressional committee action.

Similar reasons for maintaining confidentiality were also recognized by Congress in enacting the Freedom of Information Act. In reference to the exemption under Section (b)(4), House Report No. 125, 90th Cong., 1st Sess., at page 10 stated:

It would also include information which is given to an agency in confidence, since a citizen must be able to confide in his government. Moreover, where the government has obligated itself in good faith not to disclose documents or information which it receives, it should be able to honor such obligations.

The House Report also referred to Section (b)(9) and noted the contentions of witnesses that disclosure of exploratory findings of oil companies would give speculators an unfair advantage over companies which spent millions of dollars for exploration. The Senate Report, No. 248, 90th Cong., 1st Sess., page 2, said:

The purpose of clause (9) is to protect from disclosure certain information which is highly valuable to several important industries and which should be kept confidential when it is contained in Government records.

Sincerely,

JOHN N. NASSIKAS,
Chairman.

Enclosure: Table entitled, "United States Uncommitted Reserves Percent by Areas by Largest Producers."

U.S. UNCOMMITTED RESERVES PERCENT BY AREAS BY LARGEST PRODUCERS¹[In millions of cubic feet at 14.73 lb./in.²a]

Area	December 31, 1971						June 30, 1972							
	4 largest		8 largest		20 largest		4 largest		8 largest		20 largest			
	Total gas	Percent	Total gas	Percent	Total gas	Percent	Total gas	Percent	Total gas	Percent	Total gas	Percent		
South Louisiana:														
Onshore	554,336	96.9	570,025	99.6	2,572,157	100.0	368,284	92.3	392,577	98.4	2,398,830	100.0		
Offshore Federal	66,039	57.0	966,107	88.3	1,157,005	99.8	715,012	49.6	1,080,819	74.9	1,440,192	99.9		
Offshore State	32,853	84.5	38,893	100.0	2,38,893	100.0	30,142	94.9	33,752	100.0	2,31,752	100.0		
Texas Gulf Coast:														
Onshore	278,398	89.4	301,013	96.7	2,311,266	100.0	291,241	84.4	318,358	92.4	2,344,917	100.0		
Offshore Federal	301,003	98.5	3,305,574	100.0	2,305,574	100.0	4,152,624	100.0	3,152,624	100.0	2,152,624	100.0		
Offshore State	415,000	100.0	3,15,000	100.0	2,15,000	100.0	4,46,900	100.0	46,900	100.0	2,46,900	100.0		
Permian Basin:														
Hugoton-Anadarko	282,925	63.6	384,710	86.4	445,046	100.0	256,970	54.7	300,6	94.2	2,318,976	100.0		
Other northwest	32,669	76.6	40,289	94.5	2,42,624	100.0	34,367	62.6	45,729	83.3	2,54,866	100.0		
Rocky Mountain:														
Rocky Mountain	514,671	93.3	543,875	98.6	2,551,694	100.0	161,500	94.4	169,943	99.3	2,171,061	100.0		
Appalachian:														
10,711	152,760	63.4	199,739	82.9	239,206	99.2	186,319	70.4	227,386	86.0	2,63,077	99.3		
Unclassified:														
Michigan	43,484	100.0	33,484	100.0	23,484	100.0	75,066	0	379,568	0	279,568	100.0		
California	56,229	95.4	358,911	100.0	238,111	100.0	80,824	94.3	98,0	82,470	100.0	282,470	100.0	
Miscellaneous:														
"Lower 48"	54,257	87.7	61,808	99.9	2,727,701	71.5	3,512,751	92.0	1,645,575	48.4	2,296,178	67.5	3,184,368	92.7
Alaska:														
Total United States	51.4	4,284,065	75.9	5,300,064	94.0	2,661,923	51.0	3,854,799	73.9	4,947,831	94.8			
	2,897,635													

¹ Does not include 26,000,000 in North Slope reserves reported in the aggregate for all companies by one producer.

² Less than 8 firms.

³ Less than 4 firms.

⁴ Less than 20 firms.

SUBPENA

UNITED STATES OF AMERICA,
CONGRESS OF THE UNITED STATES.

To John N. Nassikas, Chairman, Federal Power Commission.

Greeting:

Pursuant to lawful authority, you are hereby commanded to appear before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary of the Senate of the United States, on June 26, 1973, at 10 o'clock am., at their committee room 1202 Dirksen Office Building, Washington, D.C., in connection with the Subcommittee's investigation of the nature and extent of competition and concentration of reserves in the energy industry, and to bring with you the material described in the attached appendix.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To the U.S. Marshal or any other authorized person to serve and return.

Given under my hand, by order of the committee, this 21st day of June, in the year of our Lord one thousand nine hundred and seventy-three.

PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly,
Committee on the Judiciary of the
Senate of the United States.

JUNE 22, 1973.

I made service of the within subpoena by personally serving the within-named John N. Nassikas, Chairman, Federal Power Commission, at 825 N. Capitol Street, Washington, D.C. at 6:40 o'clock p.m., on the 21st day of June, 1973.

BERNARD NASH.

APPENDIX

1. All memoranda, documents, and writings of any nature whatsoever in the possession, custody, or control of the Federal Power Commission or any member or employee thereof referring or relating to FPC Order updating nationwide investigation in Docket No. R-405 dated September 12, 1972.

2. All workpapers and composites resulting from material received in connection with reissued Docket No. R-405 dated September 12, 1972.

Senator KENNEDY. Any other documents which are mentioned during the course of the hearing will be inserted in the record at the appropriate point.

Conflicts have arisen in the testimony given to staff during informal interviews. Consequently, I am asking each witness to take an oath commencing their testimony, and if any witness would like to be accompanied by counsel, we will certainly accommodate them.

Mr. CHUMBRIS. Mr. Chairman, Senator Hruska could not be here this morning, but one point we would like to stress, if possible, in view of the fact that this issue may result in possible criminal charges, is the reason why we are having this matter under oath, and we should try to observe as much as possible the rules of evidence, especially as to hearsay.

Now, we know that there will be some conflicting statements, but those conflicting statements will be among the people who will be here as witnesses and under oath, and we can understand that point. But, on the hearsay point, I think we should be very cautious because that was something about which the select committee, under Chairman Ervin, was very, very careful in the conducting of those hearings.

Senator KENNEDY. Our first witness is Mr. David Schwartz.

Raise your hand. Do you swear the evidence you are about to give will be the truth, the whole truth and nothing but the truth, so help you God?

**STATEMENT OF DAVID SAMUEL SCHWARTZ, ASSISTANT CHIEF,
OFFICE OF ECONOMICS, FEDERAL POWER COMMISSION**

Mr. SCHWARTZ. I do.

Senator KENNEDY. Will you be kind enough to state for the record your full name and position?

Mr. SCHWARTZ. I am David Samuel Schwartz, assistant chief, in the Office of Economics of the Federal Power Commission.

Senator KENNEDY. Will you give us a brief background with regard to your professional qualifications and the work you are presently doing at the Federal Power Commission?

Mr. SCHWARTZ. I will be glad to.

I am a major in economics. I have a Ph. D. from the University of Wisconsin in public utility economics. I have previously worked for the Federal Communications Commission. In addition to the Federal Power Commission, I have been on loan to the Securities and Exchange Commission in the general area of regulations, the prerequisites for effective regulations, questions concerning industry structure, monopoly and the regulatory role of the monopolistic industries. I have published works in this general area of regulation and industry structure. I have appeared before a number of congressional committees in this general area.

I do not know how much more specificity you want, but, in general, that is it.

Senator KENNEDY. Can you tell us briefly why docket R-405 was issued?

Mr. SCHWARTZ. Docket 405 was issued primarily to determine the reliability of electric and natural gas service. The segment involving the gas side, obviously prompted a determination of the amount of uncommitted reserves and questionnaires by the Commission and a request by the Commission to report on uncommitted reserves as a precursor of determining the potential of reserves available for reliable service.

Now, here, again, I do not know whether you want me to go beyond just the gas side but, obviously, on the electric side the same basic concerns as to the adequacy of generating plants to provide service. So, in effect, it was an effort to include both areas.

Senator KENNEDY. Are you familiar with whether earlier surveys were done and, if you know of your own knowledge, when they were done? Did you have an opportunity to work on them?

Mr. SCHWARTZ. We did not. The responsibility is primarily in the Bureau of Natural Gas. Our concern usually is that of economists, who look to this data to give us some insight. But the basic work, that is, the collection of the data, the analysis of the data, and any handling of the data was not in the Office of Economics, but in the Bureau of Natural Gas.

Senator KENNEDY. Well, how did you get involved in this particular survey?

Mr. SCHWARTZ. Specifically with regard to the alleged destruction of these documents, I think that probably one factual predicate would be helpful. One of my responsibilities in the Office of Economics is to supervise the Office of Economics' staff with regard to proceedings and hearings before the Commission. And, therefore, whenever,

either through contact with the general counsel's office or other bureaus, there are economic issues which could be elaborated upon in testimony and evidence to be presented, we would discuss it, and I would work with the witness to determine, you know, what area should be explored or areas should be explored.

In this specific instance, when I saw the press release on February 22, 1973, which went to the national reserve data by producing area, I contacted Dr. Wilson, who at that time was preparing testimony in the *Belco* proceeding, and I informed him that I thought it would be helpful to obtain the information in order to work on some sort of a 4-firm or 8-firm concentration, because he was working on industry structure and, obviously, one of the key considerations on industry structure is concentration over supply. I suggested to Dr. Wilson that he ought to have a member of the staff get a hold of the information in order to aggregate it and look at the 4- or 8-firm concentration as a precursor to the potential industry structure testimony that he was going to present in the *Belco* proceeding. We obviously did not know what was involved, but we thought that this would be very valuable information.

At this point, I can sequentially tell you the other areas of contact with regard to my own involvement.

Senator KENNEDY. All right, but before doing that, could you tell us briefly about the *Belco* proceeding?

Mr. SCHWARTZ. Yes.

Senator KENNEDY. And its importance as far as you see.

Mr. SCHWARTZ. Yes, Senator Kennedy.

The Commission in order 455 adopted an optional pricing procedure which is distinct from the area rate procedure. In this as a predicate for producer prices, the Commission deviated from its cost base area rate regulation and went to a market premise for pricing. And in the order, they spell out that while they will look at costs, they will look at the cost of alternative fuels, LNG, SNG. They will look at intra-State price, they will look at other market factors. This was a very marked departure from the original cost based area rates and *Belco* was the first optional pricing proceeding, and so it was fundamental in terms of market structure questions to focus on the industry structures to determine whether or not a market price approach versus a cost base approach was the most protective and regulatory feasible approach to pricing of wellhead gas. And so, since it was a landmark case, we thought that it was critical that we get the information to enable us to objectify the issues on market structure.

Now, shall I proceed with regard to—

Senator KENNEDY. Go ahead.

Mr. SCHWARTZ. The data itself or the uncommitted reserves report.

The next thing I knew, when I had asked Dr. Wilson to look into the possibility of using aggregated concentration ratios for the *Belco* proceeding was that a few days after that, Mr. Kofkin came into my office and he said—

Senator KENNEDY. This is Melvin Kofkin?

Mr. SCHWARTZ. Melvin Kofkin, correct. And, as I said, I saw the press release on February 22, so it must have been, you know, 3, 4, or 5 days after that, that Mr. Kofkin came to my office and said

that he had tried to get the information from the Bureau of Natural Gas and that they had informed him that the backup data, that is, the actual reports by the company, had been destroyed and, therefore, we could not get the type of concentration ratios that we were looking for.

Senator KENNEDY. When and where did that conversation take place?

Mr. SCHWARTZ. It was in my office. Mr. Kofkin came to me, and he informed me that he could not get the information, and this was not in any structured situation, you know. We are a very small office, 25 or 26 people, and he just walked by and we have, you know, every day contact, obviously. He walked by to say, well, it doesn't look like we can get those concentration ratios because the data had been destroyed. And this was in late February just a few days after the press release.

Senator KENNEDY. What did you assume he was referring to when he said the materials had been destroyed?

Mr. SCHWARTZ. He was referring to the actual company reports of uncommitted reserves that were in the hands of the Bureau of Natural Gas.

Senator KENNEDY. That is what you assumed, or that is what he stated?

Mr. SCHWARTZ. Well, Senator Kennedy, this was back in February. At this point, to the best of my recollection, that is what he told me.

Senator KENNEDY. Right.

Mr. SCHWARTZ. Right. I then spoke with Dr. Wilson, and I said I can't believe that BNG has not kept a copy for their own use; that maybe they destroyed the original report. Perhaps if we could—

Senator KENNEDY. Did this startle you? What was your reaction when you heard that it was destroyed?

Mr. SCHWARTZ. Well, I do not believe in the destruction of data, so, obviously, I was surprised and I really did not believe that even if the original copies were destroyed, that duplicate copies were not available. I still felt—

Senator KENNEDY. Why would you be surprised that it would be destroyed? Is there not a good deal of materials that are sensitive and that if widely dispersed would have an adverse impact on a particular industry? What surprised you about the fact that materials of this nature would be destroyed?

Mr. SCHWARTZ. I would say two things: First, I do not believe that R-405 explicitly says anything about destruction and I think it implicitly says that the information should be kept confidential and that keeping information confidential is entirely different than destroying information. I mean, there are ways of securing confidentiality.

Second, I think there must be some general regulations prohibiting the destruction of Government documents. That is my general awareness although obviously I am not a lawyer and I cannot address myself to this in any legal sense.

Senator KENNEDY. Well, you have been dealing, though, in this area for some period of time, have you not?

Mr. SCHWARTZ. That is correct.

Senator KENNEDY. And I suppose you have had access to sensitive material over probably a lifetime of your activities?

Mr. SCHWARTZ. No. I must admit, Senator Kennedy, that the Office of Economics is not given access to this material, although we may have requested it from time to time. We do not have access to confidential data. The Office pretty much has to work on a public level. I think your premise is not valid.

Senator KENNEDY. Fine, fine.

Mr. SCHWARTZ. Shall I continue with the sequence of events?

Senator KENNEDY. Yes, please.

Mr. SCHWARTZ. When I was informed by Mr. Kofkin that he was informed by the BNG, Bureau of Natural Gas, that the data had been destroyed, I then went to Mr. Wilson and I said, "John, I feel that there must be a duplicate of this data that BNG would retain for their own use. Why don't we request that Dr. Wald, who is Chief of the Office" —

Senator KENNEDY. Now, John Wilson is the Director of Economics Studies, is that correct?

Mr. SCHWARTZ. He is Chief of the Division of Economic Studies, yes, sir. And I suggested to him that he take it up with Dr. Wald, who is Chief of the Office of Economics, and see if he couldn't by contacting Mr. Joyce, who was head of the Bureau of Natural Gas at that time, at a chief level, chief-to-chief, to see if we could not get the data, since I felt it was so important to the proceeding. And, frankly, for the first time it would give us some insight as to any concentration over supply, and that is what Dr. Wald did. He did contact Mr. Joyce and he was informed by Mr. Joyce that the BNG, in fact, would work up the concentration ratios for the Office of Economics. We would not have access to the reports, per se, because they were confidential, but he would work up these 4-firm and 8-firm concentrations—his staff in the Bureau of Natural Gas. And I recall the memo that Mr. Joyce sent, a very short memo, somewhere toward the end of March, and a table was attached with the concentration ratios by producing areas. We asked Mr. Kofkin again to examine the concentration ratios on the basis of the Bureau of Natural Gas reporting to us, this report that Mr. Joyce transmitted to Dr. Wald, and we found errors in those uncommitted reserve ratios. It appears that in some producing areas that the reserves reported by the individual concentration ratio were greater than shown on the basis of volumes for individual producing areas. In other words, four or eight firms show larger volumes than the total area volumes, and obviously this is an error on its face.

At that point, we asked Mr. Kofkin again to go back and check with BNG, point out these errors, and try to get some concentration ratios which we felt we could depend upon for hearing purposes. We were then told that the data was destroyed. Well, initially, you know, there was—it was destroyed, then it was not destroyed but this time it was destroyed. This was, I say, in late March or early April, I guess, when he got that feedback; that they couldn't check the errors in the concentration ratios they had provided the Office of Economics because the basic information had been destroyed.

Senator KENNEDY. Now, do you remember the times when you learned the materials had been destroyed? You mentioned earlier your first conversation with Mr. Kofkin a few days after the release had been out, and took place when he had indicated that it had been destroyed.

Mr. SCHWARTZ. Yes.

Senator KENNEDY. Then do you remember any other conversations you had with other people, either Mr. Wilson or ——

Mr. SCHWARTZ. Yes.

Mr. KENNEDY [continuing]. Or Mr. Joyce or whoever indicated that the materials had been destroyed?

Mr. SCHWARTZ. I remember my discussions with Dr. Wilson and Dr. Wald. I did not discuss this with Mr. Joyce, other than the conversation I have reported on with regard to Mr. Kofkin. I remember talking to Dr. Wilson about the fact that this was rather peculiar, it was on again, off again. First it was destroyed, then no, we can work up the concentration ratios for you, then when we found the errors——

Senator KENNEDY. Who told you? This is the conversation with whom?

Mr. SCHWARTZ. With Dr. Wilson and I remember talking with Dr. Wald, in addition to the fact, that it appears to me we just can't get access to the basic data so we can work up our own concentration ratios, and we couldn't seem to get dependable and verifiable concentration ratios in light of the errors that were in the data that BNG worked up for us. Those were essentially the conversations I had. They were at that level. And with regard to the specifics——

Senator KENNEDY. What happened when you said they must have copies as the originals have been destroyed? I think you mentioned in your conversation with Mr. Kofkin that someone must have copies; there must be some copies? Did you ask Mr. Wilson to gain those copies or duplicates or the raw information at any time, and did he at any time have a conversation with you that indicated that they just were not available, they just were not around?

Mr. SCHWARTZ. Obviously, this is done very informally and at the level that I was involved it was just in terms of directing these people to see if we could get some dependable evidence for our hearing, so that the conversation would not be as detailed as though I, myself, were working up the concentration ratios for my own testimony. So, looking at it from the supervisory standpoint, you have got to realize that I posed these problems to Dr. Wilson. It was more in the framework of a discussion with him. When I posed the problems with Dr. Wald, here again it was an effort to try and illuminate what was involved, why we could not get the basic backup information to work out our own ratios, so that, you know, I was not—it was a rather peripheral involvement on my part because of my supervisory responsibilities more than anything else.

Mr. CHUMBRIS. Mr. Chairman, may I ask a question, please, for clarification?

Senator KENNEDY. Sure.

Mr. CHUMBRIS. Mr. Schwartz, does either Mr. Kofkin or Mr. Wilson make a statement that Kofkin later stated that it was destroyed or that it would be destroyed?

Mr. SCHWARTZ. At which point are you talking about? The February period or the March period?

Mr. CHUMBRIS. Whichever period that would come to your mind.

Mr. SCHWARTZ. In other words, I was told that it was destroyed at two points in time, Mr. Chumbris. The first point in time is the late February period, when we found these areas in the press release that went to nationwide reserves, not the concentration ratios. Then

Kofkin came to my office, and I recall fairly clearly that he said the Bureau of Natural Gas said that the data has been destroyed; we cannot work up the concentration ratios, or words to that effect. All right?

The second period of time related to the submission by Mr. Joyce to Dr. Wald and, at that point in time, they had submitted the concentration ratios, the 4-firm concentration and 8-firm concentration by producing area. At that point, when I talked to Kofkin and Wilson and Wald, it was more in terms of why did they tell us it was destroyed, and then they work up the concentration ratios and now it is destroyed again. You know, what really was involved here is why can't we get the information we need for our hearing. That was the context in which this whole discussion took place.

Mr. CHUMBRIS. To make the record perfectly clear, shouldn't we identify who it was who told Kofkin on February 27, that it was destroyed, and who may have told either Kofkin or Wilson or you in the March timeframe, or who may have told you or Kofkin or—

Mr. SCHWARTZ. Wilson.

Mr. CHUMBRIS [continuing]. Wilson in the May 21 timeframe or even the April 6 to April 24 timeframe? I mean, I think what we want to do is to try to pin it down so that after we get through with this we won't still have the inconsistencies that staff agrees are in the transcripts that we already have.

Senator KENNEDY. I think we were gently reminded at the opening of the hearing about hearsay evidence. We are going to hear directly from Mr. Kofkin and we will be able to ask him that now and Mr. Wilson later on, so we will be able to get that information, unless there is something else.

Mr. CHUMBRIS. That was one of the points I made.

Senator KENNEDY. So, we will have a chance to ask Mr. Kofkin. We are asking this gentleman about his conversations directly with Kofkin and also with Wilson and the conclusion he draws from those.

Mr. CHUMBRIS. I am not being critical. All I would like is to make sure that when Dr. Schwartz makes a statement on destruction, to protect himself, that he identifies if he is talking about February, or if he is talking about March, or if he is talking about April 3, or April 24, or May 21, because those are the key time periods in this particular procedure.

Mr. SCHWARTZ. I appreciate your efforts to objectify the specifics of each time period, Mr. Chumbris. You are quite correct.

Senator KENNEDY. OK.

Could we get on to the *Belco* case? Well, let me before I get to that, just ask about the documents again. Do you think there was a deliberate attempt of the Bureau of Natural Gas to withhold this information from the Office of Economics?

Mr. SCHWARTZ. Well, obviously, you are asking for my opinion. I do not know from my own knowledge that there was a deliberate attempt. All I know is that we have a great deal of difficulty getting information from the Bureau of Natural Gas, and I do not know whether it was deliberate or whether it was just a followthrough of a general "weltanschauung," to use a German term.

Senator KENNEDY. What sense does it make for one part of an agency to have difficulty in getting information from another part of the agency? You know, I suppose the public believes that this is an agency that is supposed to be representing their interests, and here we

hear, of the difficulty that one part of the agency has with another part in gaining information. What sense does that make in attempting to clarify and carry through your responsibilities?

Mr. SCHWARTZ. I don't think it makes any sense at all. I think we should work closely together with harmony and an effort at cooperation and an effort at full implementation, so that the staff could do its work in as full and as protective a sense of the public interest as is conceivably possible. And I think if anything it works against the public interest to have offices which will not fully cooperate in every way possible.

Senator KENNEDY. Why do you think there is this difficulty? I mean, what do you think is behind it, based on your experience?

Mr. SCHWARTZ. Well, I just think there is a basic difference in orientation between the Office of Economics and the Bureau of Natural Gas and other bureaus in the Commission.

Senator KENNEDY. Can you elaborate on that?

Mr. SCHWARTZ. Yes. I think that certainly given the fact that various members of the Office of Economics, including myself, have presented testimony on industry structure, which essentially objectifies the facts that go to imperfections of the producer market. That the Office is opposed to deregulation and various other members of the Commission and other bureaus may not be, and those members of the bureaus may not be sympathetic toward the Office's views on, first, the monopolistic question of industry structure; and, second, the whole question of deregulation; and, third, as to the orientation of how you protect the public interest and what sort of regulatory policy should be pursued; whether it should be cost-based regulation on an area basis; whether or not you extend regulation to intrastate markets, or not, limiting regulation to the interstate market because it is currently being undermined, and there are a whole gambit and a very wide range of policies which the Office has more or less tried to project and implement, which we feel serves the public interests best, which perhaps the other bureaus and offices are not sympathetic toward.

Senator KENNEDY. Well, do you think this is the result of individual attitudes, or do you think it is the whole department.

Mr. SCHWARTZ. The institution?

Senator KENNEDY. Yes, the whole department.

Mr. SCHWARTZ. Well, I do not separate the two. I mean, individuals make up institutional attitudes and I think it is both. I think there are various individuals with a certain orientation which are unsympathetic toward the objectives of the Office, which we feel are significant and important in protecting the public interest, and this becomes an entrenched institutional attitude, yes.

Senator KENNEDY. Have any individuals expressed to you directly this sense of antagonism between the different departments?

Mr. SCHWARTZ. Well, it comes up in many ways, you know, to ask has anyone individually expressed these things, they are expressed and they will come in the form of a joke or they come up in the form of specific actions which are being proposed or that have been adopted. And I would say, yes, that it is quite manifest in your dealing with people.

Senator KENNEDY. But, certainly, it is not a matter of a joke, is it?

Mr. SCHWARTZ. No. I think it is very serious.

Senator KENNEDY. On the *Belco* case, what was the rate increase that was approved, do you remember?

Mr. SCHWARTZ. In contrast to the area rate that had been set in southern Louisiana, in the summer of 1971, that was more than—almost double the rate of the area rate of 26 cents. The rate set in *Belco* was 45 cents in thousand cubic feet.

Senator KENNEDY. And what was the rationale for the price increase?

Mr. SCHWARTZ. Well, the Commission opinion, if that is what you are referring to—which I assume would be the rationale—stressed both the market determined factors and the so-called cost determined premise for the price, although the costing was quite deviational from what that costing was which was used in the southern Louisiana rate case. So, what you had was an effort to underpin the 45 cents with a costing methodology which did not coincide with the costing previously used in the area rate proceedings and the use of market criteria vis-a-vis the cost of importing LNG, SNG, coal gasification and others, the prices of other fuels, so-called commodity value approach as a premise for the 45 cents.

Senator KENNEDY. And what is the significance of *Belco* on the consumer in terms of the future course?

Mr. SCHWARTZ. Well, what you are saying is that if you take the *Belco* volume that were committed, and take the differential between 26 cents and 45 cents. I can calculate that and provide it for the record. I really do not have it, you know, at my fingertips. But I can honestly say that it runs into the millions of dollars, and perhaps over \$100 million; I do not know. I have got to sit down, and then I will be glad to provide it for the record. It is a simple calculation. There were obvious commitments, not only of *Belco*, but Texaco, Tenneco Oil in that, in those offshore leases, and I have got to take the total volume committed under those sales and multiply it by the difference between 26 cents and 45 cents, and I will be glad to provide that for the record.

Senator KENNEDY. Fine. OK.

[The information mentioned above follows:]

FEDERAL POWER COMMISSION,
Washington, D.C., November 7, 1973.

Mrs. PATRICIA BARIO,
Antitrust and Monopoly Subcommittee,
Senate Annex, Washington, D.C.

DEAR MRS. BARIO: On pages 24 and 25 of the transcript, Senator Kennedy inquired as to the additional cost to consumers associated with the volumes committed under the optional pricing procedures in the *Belco* proceeding in contrast to the use of the area rate in Southern Louisiana. In order to comply with Senator Kennedy's request, please insert the following language at page 25:

The total volumes certificated in the *Belco* proceeding was 235 billion cubic feet. Chairman Nassikas in his dissent in the *Belco* proceeding (Docket Nos. CI73-293, *et al*) indicated that the total revenues received under the optional pricing procedure would be \$127.8 million. He then said: "If these same volumes were dedicated under the provisions of Opinion No. 598, assuming automatic escalations and allowing for the benefit of contingent escalations, gross revenues would be \$16.2 million for *Belco*, \$33.3 million for *Tenneco* and \$17.0 million for *Texaco*. In other words, consumers will be generating

revenues above area rates for these three producers aggregating more than \$61 million (emphasis added) (Belco, \$15.3 million; Tenneco, \$34.1 million; Texaco, \$11.9 million)."

Hopefully, this is responsive to Senator Kennedy's question. If I can be of any further assistance, please advise.

Sincerely,

DAVID S. SCHWARTZ,
Assistant Chief,
Office of Economics.

Senator KENNEDY. Now, were you able to make your final presentation in the *Belco* case?

Mr. SCHWARTZ. Yes. Well, Dr. Wilson did provide testimony, but he could not provide concentration ratios for uncommitted reserves.

Senator KENNEDY. Would that have been of importance or relevance?

Mr. SCHWARTZ. I find it is probably one of the single most important concentration ratios one could use, and many times before I have testified to what I feel are inaccurate and inapplicable measures of concentration, such as production or sales. This is a real measure of supply that we could not get at.

Senator KENNEDY. And why couldn't you get at it?

Mr. SCHWARTZ. Because we did not have access to the data, obviously.

Senator KENNEDY. That was the material that had been destroyed?

Mr. SCHWARTZ. That was the material that they told us had been destroyed, and then was not destroyed, and I understand still is available because it has been turned over to the committee.

Senator KENNEDY. Mr. Chumbris?

Mr. CHUMBRIS. Thank you, Mr. Chairman.

The issue in the *Belco* case and the various economic views, Dr. Schwartz, were very well gone into in the June hearings because you appeared before us, you and your colleague, and had very extensive testimony, I believe. I believe his testimony was 106 pages and I think yours was about 75 pages, if I remember correctly.

Mr. SCHWARTZ. 60.

Mr. CHUMBRIS. 60?

Mr. SCHWARTZ. That is correct.

Mr. CHUMBRIS. I apologize. And we had quite a bit of colloquy and that is already in the record of our hearings so there is no use of going into that.

Mr. SCHWARTZ. Yes, sir.

Mr. CHUMBRIS. Other than what you have already stated, do you have anything else to add that might clarify the discrepancies that might have been received by either Mr. Kofkin or Mr. Wald in your talks with either Mr. Mangen or Mr. Joyce?

Mr. SCHWARTZ. I have nothing to add. I tried to elaborate all I know, and tried to expand on what I felt of my own knowledge I was aware of. I cannot recall any gaps, so unless you have something explicit or specific, I have nothing else that I can give you.

Mr. CHUMBRIS. I have no further questions of Dr. Schwartz.

Senator KENNEDY. Thank you very much, Dr. Schwartz.

Mr. SCHWARTZ. You are quite welcome.

Senator KENNEDY. We appreciate it. You were very responsive and very helpful.

Mr. SCHWARTZ. Thank you.

Senator KENNEDY. Mr. Kofkin, Melvin Kofkin.

Mr. Kofkin, do you swear that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KOFKIN. I do.

STATEMENT OF MELVIN KOKFIN, ECONOMIST, DIVISION OF ECONOMIC STUDIES, OFFICE OF ECONOMICS, FEDERAL POWER COMMISSION

Senator KENNEDY. Do you want to give us your full name, please?

Mr. KOKFIN. Melvin Kofkin.

Senator KENNEDY. And your position?

Mr. KOKFIN. I am an economist with the Office of Economics, Division of Economic Studies.

Senator KENNEDY. Could you give us a description of the circumstances and your knowledge of events from the period of February 27 to April 6, concerning your efforts to obtain R-405 data from the Bureau of Natural Gas?

Mr. KOKFIN. Yes, Senator.

On February 27, 1973, I received an assignment from my immediate supervisor, Dr. Wilson.

Mr. CHUMBRIS. What was that date again?

Mr. KOKFIN. February 27. The assignment was a handwritten note attached to a copy of Federal Power Commission News Release, No. 19013, dated February 22.

Senator KENNEDY. Now, you are referring to some notes, I imagine?

Mr. KOKFIN. Yes.

Senator KENNEDY. Are they part of your diary that you keep or at least the notes that you kept during this period of time?

Mr. KOKFIN. I am sorry?

Senator KENNEDY. Are these part of the references that you made in your calendar book? Have you not kept a series of notes in your calendar book that you have been good enough to make available to the committee?

Mr. KOKFIN. Yes, sir. I have a series of notes that I wrote concurrently with the assignment, and some diary entries at various points.

Senator KENNEDY. All right. We will make those notes a part of the record.

[The above-noted information follows. Testimony resumes on p. 870.]

Mel Koffman:

Please see if we can determine from the BNG data (which supports this report) which producers (and which areas) account for the 3.6 trillion cubic feet of available reserves available as of mid-1972. Please talk to me after reading this report + before talking to BNG.

J.W.

Our Reserve

Kyzkin ex. 5

Concentration by Company and Region

Per Vic Table
~~who collected Data~~ x 3991
2/27/73

data was confidential by terms
of original order and has
been destroyed.

1973		MAY					1973	
S	M	T	W	T	F	S	S	M
1	2	3	4	5			1	2
6	7	8	9	10	11	12	3	4
13	14	15	16	17	18	19	10	11
20	21	22	23	24	25	26	12	13
27	28	29	30	31			15	16

1973		JUNE					1973	
S	M	T	W	T	F	S	S	M
3	4	5	6	7	8	9	1	2
10	11	12	13	14	15	16	8	9
17	18	19	20	21	22	23	15	16
24	25	26	27	28	29	30	17	18
							19	20

1973		JULY					1973	
S	M	T	W	T	F	S	S	M
1	2	3	4	5	6	7	8	9
8	9	10	11	12	13	14	15	16
15	16	17	18	19	20	21	22	23
22	23	24	25	26	27	28	29	30



THURSDAY 29
MARCH

Re: 2 fm. Commt - enplts/

FRIDAY 30
MARCH

Sick - Sat.

SATURDAY 31
MARCH

SUNDAY 1
APRIL



1973 MARCH 1973						
S	M	T	W	T	F	S
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

1973 APRIL 1973						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

1973 MAY 1973						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
20	21	22	23	24	25	26
27	28	29	30	31		

MONDAY 2
APRIL

Worked on our largest company holding
of uncommitted gas available for sale
(Docket R-405) found error in ~~total~~ data
spoke with ~~John~~ Manager about it

TUESDAY 3
APRIL

Manager called (8:45) with ~~new~~
Correc~~t~~ data. I suggested coming over to
"it" & Pinsky & up
Picked up material from Manager ~ 3:30

WEDNESDAY 4
APRIL

Worked on ~~some~~ uncommitted gas - found
error in error in original report (bulk
report - will have to go check old
figures in that report)

1973 AUGUST 1973				
S	M	T	W	F
5	6	7	8	9
12	13	14	15	16
19	20	21	22	23
26	27	28	29	30
31				

1973 SEPTEMBER 1973				
S	M	T	W	F
2	3	4	5	6
9	10	11	12	13
16	17	18	19	20
23	24	25	26	27
28	29	30	31	

1973 OCTOBER 1973				
S	M	T	W	F
7	8	9	10	11
14	15	16	17	18
21	22	23	24	25
28	29	30	31	



THURSDAY 7 JUNE

WORKED ON RE-VAN
TUE 26 LATER
ACON MONTY'S
COLLECTION ON
UN 8977 (1²9 53)
SIC COMPACT
IN A 5% FUEL
WINDOWS SHOWER

FRIDAY 8 JUNE

^{AM}
Collected data on 4^{1/2} ft. Reducor Mangen mill.
prankl concert! material. Completd! Beta - Equity of
airflow. i.e. Completd & new on June 1st year
1. I worked up draft of letter letter, part
one (part 2) (two parts) - in P.M.
It was long chapter - State! up the work
of V.I.U. & J.R. don't

SATURDAY 9 JUNE

SUNDAY 10 JUNE



1973							MAY 1973							JUNE 1973						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
6	7	8	9	10	11	12	1	2	3	4	5	6	7	1	2	3	4	5	6	7
13	14	15	16	17	18	19	8	9	10	11	12	13	14	8	9	10	11	12	13	14
20	21	22	23	24	25	26	15	16	17	18	19	20	21	15	16	17	18	19	20	21
27	28	29	30	31			22	23	24	25	26	27	28	29	30	29	30	31		

1973							JUNE							1973						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
3	4	5	6	7	8	9	10	11	12	13	14	15	16	1	2	3	4	5	6	7
10	11	12	13	14	15	16	17	18	19	20	21	22	23	15	16	17	18	19	20	21
17	18	19	20	21	22	23	24	25	26	27	28	29	30	22	23	24	25	26	27	28

MONDAY JUNE 11

AM I.M. asked for types w/ 4. See Stark & Nease (Revert)
from Moody's 1st q 72 & 2nd q 73 also gas ^{buy} 6/18/73
Chevy River, W.Va. recently visited about loss of water. Finally
P.M. worked on ~~of~~ paper for gas survey on
structure ~~of~~ ^{of} oil and gas industry.

TUESDAY JUNE 12

Completed paper on ~~the~~ structure of
industry. Gave it to James & typ -
Typing done by Sandy
Started working on MCZ again

WEDNESDAY JUNE 13

P.M. MCZ - for Morgan ~~see~~ ^{see} my 2-10 a
in morning. ~~for~~ ^{for} Received paper for gas
res. Moody's with T.D. who is a firm
to get review from N.G. & K. ^{see} Dr. H.
Lennart H. Kressel. His claims to N.G. ^{see} him
Sunday & complete now. Check at 5:30
5:30 p.m. in Sunday of ~~week~~ ^{week}

Senator KENNEDY. You may proceed.

Mr. KOFKIN. In the handwritten note Dr. Wilson asked me to—if I may read the note into the record?

Senator KENNEDY. Yes.

Mr. Kofkin. [Reading]:

Please see if we can determine from the BNG data (which supports this report) which producers (and which areas) account for the 3.6 trillion cubic feet of available reserves available as of mid-1972. Please report to me after reading this report and before talking to BNG.

I saw Dr. Wilson that day and he clarified the assignment further, indicating that he wanted to have 4- and 8-firm concentration ratios of the gas available for sale as reported in news release 19013.

I called a number of people in BNG, the Bureau of Natural Gas, in an attempt to try and find the person who might have access to this data. Eventually, I reached a Mr. Victor Zabel.

Senator KENNEDY. Now, who is he?

Mr. KOKFIN. He is in the Bureau of Natural Gas. At the time I did not know his title. I had never met him, but I understood that he did work in the same group as Mr. Mangen. Now, Mr. Zabel intimated to me the information was not available.

Senator KENNEDY. Well, now, what did you ask Mr. Zabel to supply you?

Mr. KOKFIN. As best that I can recall, I mentioned the fact that I was looking for information on the uncommitted gas reserve, and I was interested in the backup data to enable me to calculate concentration ratios. Mr. Zabel, according to a note that I wrote to myself immediately after the conversation, told me that the data were confidential by terms of the original order and had been destroyed.

Senator KENNEDY. He told you that what?

Mr. KOKFIN. The data were confidential by terms of the original order and had been destroyed.

Senator KENNEDY. Had been destroyed or would be destroyed
Mr. KOKFIN. My note says "has been destroyed."

Senator KENNEDY. Now, that is—

Mr. KOKFIN. My own note.

Mr. KENNEDY. From that date, is that correct?

Mr. KOKFIN. From that date.

Senator KENNEDY. All right, so then what did you do?
What's your reaction to that?

Mr. KOKFIN. I went to see Dr. Wilson and orally told him what I had learned. And Dr. Wilson told me that he would take the assignment forth from that point on and would let me know. The next time that I had—

Senator KENNEDY. Now, in the entire conversation, you told Dr. Wilson of your conversation with Mr. Zabel, is that correct?

Mr. KOKFIN. That is right, sir.

Senator KENNEDY. And what did Dr. Wilson say to you when you told him that the material had been destroyed, do you remember?

Mr. KOKFIN. I do not recall him saying anything to me, particularly, about whether they should or should not have been destroyed. I do recall him saying that I had done what I could on it, and that he would take care of it from that point on.

Senator KENNEDY. Did you think that that material might be available in another department or that there might be other files that would be available, from which you could garnish the same kind of material? Or did you assume, from your conversation then with Mr. Zabel, that it was not possible to gain access to the information that you were looking for, and, moreover, that it had been destroyed?

Mr. KOKFIN. I did not consider the matter in any way, at that time. I merely accepted the statement and assumed that the assignment was in a state of limbo, and would either die or be resurrected at some future time.

Senator KENNEDY. Do you think if it had been communicated to you that the materials would be destroyed, that you would have reflected to Dr. Wilson that you felt they were still available,

but that they were going to be destroyed. Do you think you would have taken steps to try and get the information, or do you think that you would have just ended the investigation then?

Mr. KOKFIN. Given my normal practice, I probably would have told him that they would be destroyed. The conversation with Mr. Zabel was a rather brief one and the note that I read is, basically, the substance of it.

Senator KENNEDY. This was a phone conversation with Mr. Zabel, was it?

Mr. KOKFIN. That is right.

Senator KENNEDY. How do you know you were talking to Mr. Zabel and you were not talking to somebody else?

Mr. KOKFIN. I do not know. He gave me his name and said that he was Zabel and I merely accepted it at that point.

Senator KENNEDY. It could have been somebody else saying that his name was Zabel?

Mr. KOKFIN. Could very well have been.

Senator KENNEDY. What did you do, call over there and ask for Mr. Zabel's office?

Mr. KOKFIN. I had called a number of people and one would suggest another who might have some information, and I eventually reached Mr. Zabel and I do not know who gave me the name.

Senator KENNEDY. But you called up and the person who identified himself as Mr. Zabel, who is in the Bureau of Natural Gas, gave you this information?

Mr. KOKFIN. That is right, Senator. I would not have recognized him if he appeared in person, because I never met him.

Senator KENNEDY. Was there more than one person on the phone, to your recollection?

Mr. KOKFIN. Not that I can recall.

Senator KENNEDY. You were not conscious that somebody else—that you had a partial conversation with one person, and then another conversation with anyone else? Is it your impression that you just talked with one person, and one person only and it was the same person, and that person was Mr. Zabel?

Mr. KOKFIN. Well, we are dealing with an event that took place 6 or 8 months ago, and was not very important at that particular time so I really cannot say.

Senator KENNEDY. But your impression is that you talked with one person, and that person was Mr. Zabel, is that correct?

Mr. KOKFIN. That is right. Maybe somebody else came on the phone first and said I will give you Zabel or something of this sort.

Senator KENNEDY. But after you started talking to Zabel, you were not conscious of any other interruption or anybody speaking to you after you spoke to Mr. Zabel?

Mr. KOKFIN. Not that I can recall.

Senator KENNEDY. And did you ever gain the information that you were looking for?

Mr. KOKFIN. Yes, I did.

Senator KENNEDY. When?

Mr. KOKFIN. About March 29.

Senator KENNEDY. And how did you gain it?

Mr. KOKFIN. At some time on, or prior to, March 29, I received a second part of the assignment from Dr. Wilson, which consisted of a memorandum from the Chief, Bureau of Natural Gas, to the Chief, Office of Economics, dated March 21, indicating that the composite information on uncommitted gas reserves of the four and eight largest producers had been tabulated, and the tabulation was attached to the memorandum.

Senator KENNEDY. And do you know who you received that from?

Mr. KOKFIN. I presume Dr. Wilson. That would have been the normal way.

Senator KENNEDY. In your references, your diary notes, you refer to errors in data furnished. Could you elaborate on this? Do you have a copy of those notes?

Mr. KOKFIN. Sure. When I started to work on the concentration ratios the information I had been furnished was the amount of uncommitted reserves of natural gas held by the four and eight largest producers by area, and in certain cases the total amount of gas held by the four largest companies was in excess of the amount reported in the press release as the total gas available for sale. This was an obvious error and had to be clarified. When I found this out, I called Mr. Mangen. This was on April 2, 1973. I called Mr. Mangen in the late afternoon and told him that I had run up against some problems and described the general nature of the problem. And he said he would check into it and let me know.

Senator KENNEDY. Did they correct the data?

Mr. KOKFIN. Yes. On Tuesday morning, the next morning, about a quarter of 9, Mr. Mangen called me and said that the data would be corrected. At that time, the Federal Power Commission was split physically with two locations. The Bureau of Natural Gas was at 441 G Street, and the Office of Economics was at K and 14th. I suggested to Mr. Mangen that I would come over later and pick up the data in person. I did so. I went over to 441 G Street about 3:30 in the afternoon and got the correction from a Mr. Pavetto.

Senator Kennedy. Could these corrections have been made if the data had been destroyed?

Mr. KOKFIN. I do not know how the Bureau of Natural Gas maintains their records. It is quite conceivable that it could have been resurrected from other material, even if the original data had been destroyed. It might have been that they had the material arranged in some other form, but I just could not say with any certainty in the absence of any knowledge of how they maintained their files.

Senator KENNEDY. They had a second set of errors in the copy of the second report?

Mr. KOKFIN. Yes, sir.

Senator KENNEDY. Would you tell us about those?

Mr. KOKFIN. While working on the concentration ratios, I had to use the total gas reserve figure shown in the press release and the information in the press release was a total table of associated and nonassociated gas, followed by two subsidiary tables, one of associated gas and one of nonassociated gas, and there was what appeared to be errors in addition from the tables which did not again add up properly to the total specified. And, once again, I attempted to get the correct information so that I could make proper concentration ratios out of it.

Senator KENNEDY. When was that?

Mr. KOKIN. Either on April 4 or April 5.

Senator KENNEDY. And who did you talk to?

Mr. KOKIN. I talked to Mr. Mangen on one of those days.

Senator KENNEDY. And what did he tell you and what did you tell him?

Mr. KOKIN. Mr. Mangen told me that he could not correct or verify the material for me, that it had been turned over to the security people.

Senator KENNEDY. Why do you think it had been turned over? Did you form any impression? Did that seem natural to you? I mean, does that often happen to you, you try to get some material and they say it is held in security?

Mr. KOKIN. It has never happened to me in the Federal Power Commission. This has been the only time I have ever worked with this type of material.

Senator KENNEDY. Well, what did you assume when he said it was over with the security people. Why didn't you say, "Well, why don't I go down and take a look at it wherever the security people are?"

Mr. KOKIN. In the context of the conversation, which I do not remember exactly, it appeared that the documents had been destroyed or would be destroyed.

Senator KENNEDY. Well, on the basis of this conversation you formed the impression that they had been destroyed, is that correct?

Mr. KOKIN. Yes.

Senator KENNEDY. Or did you think that they were down in security, with somebody in the security division who had them under lock and key?

Mr. KOKIN. I formed the impression that they had been destroyed but I do not recall that that was said explicitly.

Senator KENNEDY. I see. And I suppose that if you did not, you would probably say, "Well if they are down there in safekeeping maybe I will go down and look at them down there." I would assume that that is what you would say to a person if you asked for them and they say they are under safekeeping, or security has them some place down there; that you would want to retrieve them, I imagine?

Mr. KOKIN. I probably would.

Mr. CHUMBRIS. You had better think about that statement a little bit.

Mr. KOKIN. I am sorry, sir.

Mr. CHUMBRIS. You had better refresh your memory on that statement because the tapes indicate you answered a question just on that particular point that the Chairman has asked you.

Mr. KOKIN. Which question are you referring to?

Mr. CHUMBRIS. May I read from the tapes?

Senator KENNEDY. Sure.

Mr. CHUMBRIS. You said this:

I don't think you said per se it has been turned over to security people for destruction. I believe in the context of the conversation we had, the phrase "turned over to the security people" became tantamount to being turned over to destruction. The essence of it was that the material was not available and could not be made available, either because of its destruction or intended destruction. I do not know if he ever really made it clear if it had been destroyed or would be destroyed and, at that point, it really wasn't very important to me at that point. The basic problem to me was the material was not available, and I had a time constraint on this particular assignment of finishing it by Friday.

And here is the question asked by one of the staff persons, who was not identified:

Well, did you at all indicate anything to him with respect to getting it back from the security people.

And you made an answer. Would you like to think about that answer?

Senator KENNEDY. Well, do not keep us in suspense.

Mr. CHUMBRIS. All right, I will read it:

No, I didn't, this is outside my field. Magnen was my basic point of contact in all of this, and when he said that it was destroyed or about to be destroyed, I took him at face value, that it was no longer available, and then I went back to my office, etc. etc.

Senator KENNEDY. In just listening to that, I do not think there is anything inconsistent.

Mr. CHUMBRIS. No, I just wanted to make sure that he remembered the exact answer he gave on his tape, and I was afraid that by not answering it, he may have led the record reader to a different inference and I just wanted to protect the witness.

Senator KENNEDY. Well, I think, certainly, my initial impression is that everything that you have responded to in my questions is completely consistent with what has been mentioned here. The questions have been somewhat different and altered, but they certainly—I think certainly the responses have been complete.

Finally, do you know of a second set of corrections that was made?

Mr. KOKIN. A second set of corrections, Senator?

Senator KENNEDY. Yes, following your pointing out the errors, the second time?

Mr. KOKIN. Well, at a much later date, a news release, on June 25, No. 19368, was released by the Commission called a Revised Report on Uncommitted Gas Reserves, which did make some corrections.

Senator KENNEDY. Were the corrections given to you directly?

Mr. KOKIN. I no longer was involved in the assignment at that point.

Senator KENNEDY. Thank you very much.

Mr. Wald, Mr. Haskell Wald?

Excuse me, Mr. Chumbris, did you have anything to ask of this witness?

Mr. CHUMBRIS. I just wanted to get clear for the record that on February 27; right?

Mr. KOKIN. Yes, sir.

Mr. CHUMBRIS. You talked to a person who identified himself as Mr. Zabel, and you heard him say that the documents were destroyed?

Mr. KOKIN. According to my notes, that is what I have.

Mr. CHUMBRIS. Yes. Now, earlier when I asked a question of Mr. Schwartz and I read a quote, which I just read in full, I read a quote that was taken out of your testimony on page 10, which is the quote I just read into the record about it was either destroyed or would be destroyed. That was in a different frame period. That was in the April frame, is that correct? April 3 or 4?

Mr. KOKIN. I am sorry, sir, I am very confused about what particular time you are referring to. Could you clarify and then I will attempt to respond to it.

Mr. CHUMBRIS. Well, I am asking you to put it in a timeframe. I am just asking, and I was just quoting, and I was not there when the interviews were made and I want to put it in a timeframe. On February

27 it was a person that you thought to be Zabel, who said the documents were destroyed. That was one point and then at another time you were talking to Mangen, is that right?

Mr. KOKIN. That is right.

Mr. CHUMBRIS. And the Mangen time? Was in what April 3 or 4?

Mr. KOKIN. That was April 4 or 5.

Mr. CHUMBRIS. Right. That is all. I just wanted to make sure we put each quote in its proper timeframe with the appropriate person that you talked to.

Senator KENNEDY. Well, I think that is important and I feel that your diary references do that very effectively and are of considerable value so the committee. I want to thank you; you have been very responsive and very helpful.

Mr. Haskell Wald?

Mr. Wald, do you swear the evidence you are about to give us will be the truth, the whole truth, and nothing but the truth, so help you God?

STATEMENT OF HASKELL P. WALD, CHIEF ECONOMIST, OFFICE OF ECONOMICS, FEDERAL POWER COMMISSION

Mr. WALD. I do, sir.

Senator KENNEDY. Would you give your full name and your position?

Mr. WALD. I am Haskell P. Wald, Chief of the Office of Economics, and chief economist.

Senator KENNEDY. We would like you to expand on what we have already heard from Mr. Schwartz regarding your knowledge of the Office of Economics' attempt to procure information from the Bureau of Natural Gas in connection with the R-405 study.

Mr. WALD. Yes. I believe that my involvement with these documents began at the end of February when I was informed by Mr. Wilson that his request for concentration ratios derived from the data on uncommitted reserves could not be met. I was told that the Bureau of Natural Gas was unable to provide the data, and Dr. Wilson requested me to take up the matter with the Bureau of Natural Gas—with the Chief of the Bureau of Natural Gas.

Within 2 or 3 days after that conversation, I did meet with Mr. Joyce, then Chief of the Bureau of Natural Gas. I explained our use of the data would not contravene the confidentiality imposed by the Commission order. Mr. Joyce then telephoned one of his staffmen, who I believe was Mr. Mangen, and discussed our request for the data, and asked why our request could not be satisfied. After considerable—

Senator KENNEDY. Now, was anyone else at the meeting?

Mr. WALD. No, Senator, it was simply Mr. Joyce and myself in Mr. Joyce's office.

Senator KENNEDY. And it was as a part of the *Belco* strategy meeting?

Mr. WALD. No. This was not in the context of *Belco*. This was simply in the context of the Office of Economics needing data for analytical purposes.

Senator KENNEDY. And was destruction or anything like that mentioned at the meeting?

Mr. WALD. No. Destruction was not mentioned at the meeting. I was aware of the fact that there were problems in meeting our request.

Senator KENNEDY. Well, tell us about that. Would you elaborate on that a little?

Mr. WALD. Well, basically, the data on uncommitted reserves have been collected for a very specific purpose and that was to obtain composited totals on available reserves in different producing areas. That purpose had been served by the Bureau, had been satisfied, and it was not surprising to me that the Bureau of Natural Gas had put aside the basic data and had gone on to other assignments. And, therefore, our request was really a request for the Bureau of Natural Gas to look up the data which had been put aside, and see if it could not be compiled to meet our needs.

As a result of the conversation on the telephone between Mr. Joyce and Mr. Mangen, an agreement was reached that the Bureau of Natural Gas would provide the data we asked for; that is, data on the four-company and eight-company concentration ratios.

Three weeks later, I did receive the table with the data and a covering note from Mr. Joyce saying that they were forwarding the data to meet our request.

Senator KENNEDY. That was on March 21, was it?

Mr. WALD. Mr. Joyce's memorandum was dated March 21. I believe we received it the following day on March 22, and I then forwarded the BNG memorandum and table to Mr. Wilson. My note to Mr. Wilson indicated that the Bureau of Natural Gas had satisfied our request and it is now up to his staff to do what they can to analyze the data.

The next event in this chronology was on April 6, when I received a copy of a memorandum from Mr. Kofkin to Dr. Wilson. The memorandum indicated that there were errors in the table provided to us by the Bureau of Natural Gas, and the memorandum went on to report that all records were destroyed last week. The reference, of course, was to the information Mr. Kofkin had received from the Bureau of Natural Gas staff. Mr. Wilson had attached a route slip on them, on the memorandum, indicating that he was distressed over the inability of the Bureau of Natural Gas to provide the information.

That is really the last involvement on my part. From my standpoint, it appeared that the records had been destroyed. It also appeared that the Bureau of Natural Gas had made a good-faith effort to satisfy our request. It was obvious that the data that had been provided were not satisfactory because there were statistical errors but, given the report that the basic record had been destroyed, I saw no need for further steps.

Senator KENNEDY. That was the first you learned of the destruction of the material?

Mr. WALD. I believe that the earlier report from Mr. Kofkin that he was unable to obtain the information from the Bureau of Natural Gas was coupled with the suggestion that either the data had been destroyed or that they were unable for one reason or another to compile these concentration ratios.

Senator KENNEDY. Now, we will make the memorandum a part of the record.

[The memorandum above noted follows:]

MELVIN KOKIN,
Chief, Division of Economic Studies,
April 6, 1973.

CONCENTRATION RATIOS—LARGE PRODUCERS PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE

The attached work sheet contains the concentration ratios (four and eight largest producers) for large producers proved natural gas reserves available for sale. The numerators of the ratios are based on administratively confidential material received from Mr. Mangen of BNG; the denominators of the ratios are taken from pages 8-10 of *FPC News Release No. 19013*, (Docket No. R-405: Reliability of Gas Service).

There appear to be a number of errors in Tables I and III of the News Release. Two which had an effect on the results were in Table I, Total Large Producers Proved Natural Gas Reserves Available for Sale (p. 8). Large Producers Reserves Available for Sale—South Louisiana Federal Offshore as of December 31, 1971 should be 607,794. Large Producers Reserves Available for Sale—Unclassified Areas—All Others as of June 30, 1972 should be 81,626. The assumption has been made that these errors are due to incorrect addition to obtain the total rather than in the constituent parts. Figures for Appalachian Area gas available for sales as of June 30, 1972 appear in error and the ratios obtained should not be used. There are some inconsistent data in Table III, Total Large Producer Associated Dissolved Natural Gas Reserves Available for Sale, which had only marginal effects on the ratios (A change from .994 to .998 was the most significant), but there is a possibility of some error in South Louisiana figures where Large Producer Reserves Available for Sale as of December 31, 1971 total to 315,413 as opposed to 279,776 shown.

Mr. Mangen has indicated that *all records were destroyed last week* and it is impossible to verify the source of error. Errors in the worksheet which provided the volume of the four largest and eight largest producers have been corrected per data furnished by Mr. Pavetto, Bureau of Natural Gas. In view of the number of possible errors and the lack of source material to resolve the inconsistencies it is suggested that great care be exercised in use of the calculated ratios.

MELVIN KOKIN.

Senator KENNEDY. This note about BNG's lack of accuracy and "their apparent lack of cooperation in this matter is most distressing since they knew of the desire to use the data. Why would they destroy it? Is it possible another copy is available so that we can make our own verification?" Are those your words? Do you remember?

Mr. WALD. Those, I believe, are Dr. Wilson's words.

Senator KENNEDY. Dr. Wilson to you?

Mr. WALD. Correct.

Senator KENNEDY. And what was your reaction when you read the material had been destroyed?

Mr. WALD. I was distressed, as was Dr. Wilson.

Senator KENNEDY. Why?

Mr. WALD. Because I would have liked to have seen him complete his analysis of this data. I cannot say that I was worked up to the point of complaining, because I was not wholly surprised at this outcome. As I said earlier, the basic survey was collected simply to obtain composited data. The Bureau of Natural Gas had satisfied that purpose and, apparently, felt their work had been done. I was not aware that the original order stated that the basic reports should be held in a confidential status. It would not have surprised me if I had learned that the staff people felt that they had no longer any need for the data and would have disposed of them in one way or another.

Senator KENNEDY. I mean were you surprised that they were destroyed? As a person who is working in this field, did this seem like a standard operating procedure or was this an unusual procedure?

Mr. WALD. Well, my personal feeling is that it is not an unusual procedure. Once the data had served their purpose, it is not clear that they must be retained in the files indefinitely. I also believe that the first survey—and, as you know, Senator, we are now talking about the second survey on uncommitted reserves—in the case of the first survey, I believe that the data was given to us, to our staff investigators, and then returned back to the company so that the original reports were not maintained in the Commission files.

Senator KENNEDY. When did you finally get the concentration ratios?

Mr. WALD. I received them on March 22.

Senator KENNEDY. What did you do with those?

Mr. WALD. Well, this is the table which I forwarded to Dr. Wilson, and which later turned out to have statistical errors.

Senator KENNEDY. Was that usable in the *Belco* proceeding?

Mr. WALD. No. These data were not usable.

Senator KENNEDY. Why not?

Mr. WALD. Well, simply because the errors were conspicuous and it would not be appropriate for one of our witnesses to be sponsoring data which had obvious deficiencies.

Senator KENNEDY. Was the material in any way confidential at that time?

Mr. WALD. The table from Mr. Joyce was marked administratively confidential. If we were going to use the table as evidence in the proceeding, we would have to go back to Mr. Joyce and ask whether it was possible to have this classification changed. But, we never reached that point because the errors were never clarified in time to have the information used in the hearing.

Senator KENNEDY. Now, what happened on June 7, do you know?

Mr. WALD. My notes suggest that on June 7 I first learned that the data had not been destroyed.

Senator Kennedy. How did you learn it?

Mr. WALD. I learned it, perhaps you might say, secondhand or third-hand; I learned it from Dr. Wilson who learned it from Mr. Maxson, our executive director.

Senator KENNEDY. Now, what was your reaction when you found out that the material had not been destroyed?

Mr. WALD. My reaction, I think, was mainly amusement in the sense that I also learned at that time that there was an attempt to destroy the original documents, that they had been torn into four pieces and had been prepared for the incinerator, but were never burned. And I think you would agree that such a series of events does lend itself to humor.

Senator KENNEDY. I think it lends itself to a very considerable amount of distress. You say you are not surprised when the materials are destroyed because your awareness or understanding is that this is not a very unusual procedure. You then find out later that they have not been destroyed, and then you think it is funny. What kind of shop are we running over there? I mean, does this kind of thing go on very often?

Mr. WALD. I am not aware that such events go on often in the Commission and I also believe that there is some indication that the whole series of events was inadvertent. As I said earlier, I could see where the staff people felt that the data had served their purpose and were prepared to destroy them. I do not believe there was any deliberate effort on the part of anyone in the Bureau of Natural Gas to deprive the Office of Economics of this information.

Senator KENNEDY. Were you ever given a public document showing those ratios for the four or eight largest concentrations?

Mr. WALD. A press release was issued in the middle of June and, of course, I received a copy of that press release. I also received the communication from Chairman Nassikas to Senator Hart which enclosed the data.

Senator KENNEDY. Can you give us a professional opinion about the worth of 405 and the Natural Gas Reserves Survey for the purpose of proving or disapproving a shortage of natural gas and other such shortages, due to withholding, deliberate withholding by the oil companies?

Mr. WALD. I will be glad to give you my personal evaluation of the statistical reliability of this R-405 survey, and I think that when you hear my evaluation, you may have a better understanding as to why I did not get worked up about the incident of the data being destroyed, and then not being destroyed.

It is my personal feeling that the data are not reliable for the purpose of indicating the available reserves held by gas producers. I base that conclusion partly on the fact that the survey was intended to answer the charges of withholding and conspiracy, which have been leveled against the industry. The reporting, therefore, was bound to have been influenced by the desire of the reporting companies, namely, the gas producers, to refute such charges. The reporting instructions provided considerable leeway to the companies with respect to the data to be reported on reserves available for sale. For example, the reporting instruction said that the companies are permitted to exclude gas held for companies' own use, or gas held for use for warranty contracts. In other words, the companies were asked to make their own decision on how much gas they wanted to declare as being available for sale, as of that day, and how much gas they felt they would want to hold back for their own use, or for warranty contracts, which did not have fixed reserve requirements and, therefore, could have some additional reserves which the company could set aside.

To conduct a survey of this sort, you have to have some control tools. You probably should have asked the company to report their total gas reserves and then to classify the reserves according to amounts dedicated to interstate contracts, to intrastate contracts, to direct industrial customers, amounts held for their own use, and amounts available for sale. And probably, also, any gas reserves which are behind shut-in wells.

Our survey did not require this type of classification of reserve holdings so that we could verify whether the companies were giving us accurate reports on their reserves.

Senator KENNEDY. Did you have any input on the development of the survey, sir?

Mr. WALD. No, Mr. Chairman. The questionnaire was prepared by three investigators designated by the Commission in the initial R-405 order. These investigators were members of our legal staff and they, apparently, worked with people in the Bureau of Natural Gas to design the questionnaire. The questionnaire was part of an investigative proceeding which did not involve any members of our office.

Senator KENNEDY. Could the questions have been more tightly drawn, do you think?

Mr. WALD. Yes; the questions could have been more tightly drawn, but I should express this one reservation. The Federal Power Commission has never required companies to report their total gas reserves, and this goes back throughout the history of the Commission and not simply in this period that we are talking about.

Senator KENNEDY. Why not?

Mr. WALD. Well, you have asked a question which I do not know whether I can answer.

Senator KENNEDY. Well, it just seems we are trying to find out what we have got in terms of reserves for the American people. If the Power Commission doesn't ask them for their total reserves, how are we going to know? I mean, how are Members of Congress supposed to know or the American public supposed to know unless we are asking the question?

Mr. WALD. Well, this question on the need for better reserve data has, of course, been widely discussed during the past few years. I would say earlier the need was not critical, simply because in the early 1960's there was a redundancy of gas supply, and it was only in the latter half of the 1960's, and, particularly, starting in 1968 that there were any signs of a shortage. And, certainly, at that period, it would have been desirable to have company reserves.

Senator KENNEDY. Well, did you ever suggest to the Commissioners that this would be helpful? Would it be helpful to you as an economist?

Mr. WALD. It would be very helpful to me as an economist, or to any other economist who is interested in analyzing the impact of regulation.

Let me make one further point, Senator. The Commission does have regular reporting of reserves dedicated to interstate pipelines and this is a body of data which is very important for our work on pipeline certificate applications.

Senator KENNEDY. I am sure it is important, but I do not understand. Do you ever go to the Commissioners and say, "Do you know what would really be helpful to us is if we had the total reserves? This would be helpful to us and can we put that on a survey?" Do you ever think of doing that?

Mr. WALD. We have gone to the Commission many times with questions about the AGA reserves series, which is the only series the Commission has for total reserves in the United States. We have attempted to demonstrate many questions about the reliability of that series, and many of these documents are now a part of the public record.

Senator KENNEDY. But that really does not respond to my question. Why don't we get that material and why doesn't the Commission get

it, and why doesn't the Congress get it and the public get it, so we know what the total reserves are? It seems to me if we have a question about an energy crisis, and we are trying to decide how much we do have of natural gas and other reserves, you could start off by asking that question. And I appreciate the historical background about not really feeling that there was much of a problem until 1968. But, it's been a long time now—5 years—and I am just wondering why we do not have the information?

Mr. WALD. The Commission did take a very bold step. I would say, in requiring a survey of reserves as part of our national gas survey. This data apply just to 1 day, December 31, 1970, and there our staff attempted to make a comprehensive estimate of reserves and to verify the numbers reported by the American Gas Association.

Senator KENNEDY. Was that a valid survey?

Mr. WALD. I would say that it was a valid survey for the purpose, again, for the purpose intended. I put that qualification in because the survey was based on the definition of proved reserves used by the industry, which from my standpoint is a rather limited definition.

Senator KENNEDY. If you really wanted to find out what the reserves were for the country, what kind of a question would you ask? Do you think you could draft a survey that would get that information?

Mr. WALD. Well, a survey raises two classes of questions. Basically, the survey is a problem for geologists and petroleum engineers, and I could not begin to indicate the criteria which they must use in estimating reserves. From the standpoint of the economists, we want a survey that would answer questions that are the most critical at the moment. For example, just to have a total figure on reserves does not help me very much. I want to know how the reserves are broken down so that we know how much is committed to contracts and how much is available for sale. And, furthermore, how much reserves could be developed with very little additional effort. You see, the definition of proved reserves does not include all known reserves. There are some reserves which are known and are beyond certain area limits, and they are excluded from the definition of crude reserves.

I am also very much concerned about the year-to-year changes in reserves. The industry has reported sharp declines since 1967. Those declines do not correlate very well with the trend in drilling activity. Furthermore, the declines are based upon large revisions of earlier estimates, large revisions which are negative revisions, and we do not have an adequate explanation of the reasons for those revisions. Nor do we have an adequate explanation of why the level of reserve findings has been so much lower in the last few years than back in the 1960's. It is that type of information that I, as an economist, would like to have, and which we do not have at present.

Senator KENNEDY. Of course, the act says the Commission shall at all times have access, the right to inspect, examine all accounts, records, and memorandums of the natural gas companies, and it should be the duty of the natural gas companies to furnish to the Commission, within such reasonable time as the Commission may order, any information with respect thereto. So I just wonder why the Commission does not get all of this information that, obviously, is desirable from the economists' point of view. And I would think that applies to the national view, too.

Mr. WALD. Well, the Commission did make its first effort as of the end of 1970. I believe that Chairman Nassikas has indicated that there will be subsequent efforts. The National Gas Survey is now going to be a continuing activity, and there is every possibility that there will be a succession of reserve estimates. However, I am not in a position to say whether that is a definite plan or just under discussion.

Senator KENNEDY. But it would be helpful to you, obviously, from an economic point of view to have that kind of information.

Mr. WALD. It would be helpful to me but, as I indicated earlier, it would be simply the first step because we need not only total reserves, but we also need to have this breakdown so that we know where the reserves are, to whom the reserves are committed, and what reserves are available and what reserves are on the verge of coming on the market but are still not developed to that final point.

Senator KENNEDY. But we do not have that information, as I understand it?

Mr. WALD. We do not have that information now.

Senator KENNEDY. And we ought to have it.

Mr. WALD. We certainly should have this information.

Senator KENNEDY. And if my understanding of the 1938 act is correct, it says: “* * * shall at all times have access and the right to inspect and examine all accounts, records, memoranda of natural gas companies. It shall be the duty of such natural gas companies to furnish to the Commission, within a reasonable time, this information.”

So, as I understand, they have the power to get it, and you think that it would be useful and helpful to have it, and they don't have it at the present time.

Mr. WALD. They have not progressed to that point but, again, I would say that some progress has been made, since we have had at least one independent survey of gas reserves.

Senator KENNEDY. Do you have any impression whether these surveys were prejudged not to elicit the most useful and valid data?

Mr. WALD. Are you referring to the R-405 survey?

Senator KENNEDY. Right.

Mr. WALD. The uncommitted reserves?

Senator KENNEDY. Yes.

Mr. WALD. No, I have no basis for making such a claim. I would just say that these surveys were initiated in an environment when the industry was the object of rather serious charges of withholding of reserves and that environment, undoubtedly, had an impact on the quality of the reporting. But I would not go so far as to say that that environment affected in any way the Commission's design of the survey.

Senator KENNEDY. Why do you think that there is a natural gas shortage?

Mr. WALD. You have obviously opened up a very big question, which I have written about on several occasions and talked about. I like to refer to it as the “strange case of the backward bending supply curve.” This is the economist's theoretical description of an industry which produces less as the prices go higher. And, as you know, we have had much higher prices in the last few years and much lower new supply.

To just briefly indicate the problem, I would pinpoint the failure of the Commission and the administration to affirm the need for continued regulation of natural gas producers and the failure of top officials to affirm the adequacy of prices which we are allowing. I think that the industry believes that there is a good possibility of either decontrol through legislation or decontrol through very high FPC prices. These events have not happened yet and, therefore, assets which are held in the ground have tended to increase in value and to increase at a faster rate than the cost of holding these assets in the ground. Basically, the industry has not been given the strong inducement that they should have to add substantial additional amounts to our currently available supply. The Commission has been moving to raise prices. But this recent period has been a period of confusion, I should say, from the standpoint of what prices will the Commission accept.

We have approved prices up to 45 cents, and we have had applications for prices above 60 cents. The industry, obviously, is feeling its way to see how prices are going to go and we still do not have the answer. A pending proceeding, a nationwide rulemaking proceeding, may give the industry the answer, but this proceeding has not been concluded.

Senator KENNEDY. What would be the real point of the industry freeing up some of its reserves or producing more at this time? It seems like the situation you have described is that their assets are increasing in value just in the ground rather than out in the market. So what is the incentive now for the industry itself to produce more?

Mr. WALD. In many situations the producer has obligations to produce reserves. The terms of his lease may say that he must produce and show a good-faith effort to produce, so that he does not have freedom to hold back. But, I would feel that there is plenty of inducement for producers to hold back on investment. I am not convinced that we will ever show a deliberate withholding of reserves in large amounts that could be sold but simply are not being sold. I think the withholding argument has to be interpreted in terms of a discouragement for producers to put large additional amounts into exploration and development at this time, because they believe that this is not the most favorable time from the standpoint of getting the highest potential prices.

Senator KENNEDY. Well, if you were an economist now, and you were consulting with the natural gas companies, would you advise them to produce more or produce less?

Mr. WALD. My advice to them at the moment would be to produce more, and to produce more in the sense of doing more exploration and development.

Mr. Chairman, there has been a dramatic increase in the level of exploration and development during the past year and a half. 1973 will show record highs for the number of gas wells drilled and the footage drilled for gas wells. So, the industry has responded to the higher prices which they are now being allowed to collect, and I would recommend to the industry that the prices are attractive today, and that it is in their best interests to go full steam ahead and to try to find more gas. What I am recommending today I would not have recommended 2 or 3 years ago.

Senator KENNEDY. But certainly you would recommend that they go ahead and continue exploration. But would you continue, would you tell them to wait, that the old pricing system is escalating, and to go ahead and produce as well? I mean, if you were consulting now with the gas companies, do you think you would tell them to keep it in the ground the way the prices are going up and it would be worth more in the ground than out in the market in a few years?

Mr. WALD. I am not optimistic about decontrol legislation being enacted by the Congress and, therefore, I would not advise a client of mine to assume that if he waits 2 years he will be free of the Federal Power Commission regulations. Furthermore, I would note that the courts have often been protective of the consumer and some of the Commission's efforts to raise prices have been reversed by the courts, so that we have this legal uncertainty regarding future price trends. It would seem to me that the prices that are available today for approval by the Commission are quite attractive from a profit standpoint.

Senator KENNEDY. Do you remember an interview that you had with the staff in which you remarked:

You may recall the first survey on uncommitted reserves was undertaken by a Commission Order in 1970 and the survey was started. It seems to disprove the claim that there had been withholding of gas reserves. You might say that the answers from the survey have been prejudged because prior to the survey the Commission and various administration officials had discussed the argument about withholding very clearly.

Mr. WALD. Yes, I would continue to adhere to that view, but I would not want prejudgment to be interpreted as an indication that the design of the survey was made in order to confirm that prejudgment. I would say that the design of the survey was an honest effort by a few individuals to collect data. Unfortunately, these individuals were not qualified statisticians and made no effort to tighten up the survey and get accurate reporting. But, I do not think that the design of the survey was deliberately made to show that there was no withholding.

Senator KENNEDY. We have heard of the difficulties that exist in cooperation between the Office of Economics and the BNG. What is your reaction to that?

Mr. WALD. I am not aware of serious difficulties between our Office and the Bureau of Natural Gas. There are rivalries and there are individuals in the Bureau of Natural Gas and in our office who will have clashes. But, on the whole, we have been able to work together and I have a hunch that there are as many people in the Bureau of Natural Gas who are supporters of the Office of Economics as there are people who are opponents of the Office of Economics.

Senator KENNEDY. I am not sure that is encouraging.

Mr. Chumbris?

Mr. CHUMBRIS. Thank you.

Dr. Wald, on that last point that you had a colloquy with the chairman about, the problem between the economics section and others in the Commission, if my reading has been accurate in the last 15 years or so, up here on this subcommittee, I think one of the prime questions that we have had with the Department of Justice and the Federal Trade Commission and other agencies, is the battle

between the economics section and the legal section or maybe other professional sections, as to how to proceed, whether it is a merger case, or whatever the case may be. Would you place that in the same light with what you have before you in the Federal Power Commission?

Mr. WALD. Well, you have now moved from the Bureau of Natural Gas to the Office of General Counsel. There I can speak with, let us say, more emotion. The economists in the Power Commission have been bold enough to challenge the traditional dominance of regulatory agencies by lawyers. Now, I realize that I am sitting before a group of lawyers and perhaps I am not making myself popular by these comments. But, I think it is fair to say that lawyers have dominated the regulatory process. I will go so far as to say that this is inevitable because lawyers argue the cases and write the briefs and write the Commission opinions. However, on policy issues, the economists, in many ways, are better trained than lawyers because we are talking about economic regulation and resource use and these are questions which are the core problem for which economists are trained. So, in the Power Commission the economists have challenged the dominance of the lawyers, and this has made for conflicts. And I would point out that R-405 proceeding which we are discussing, was probably more under the control of lawyers than of the Bureau of Natural Gas. The investigators were from the Office of the General Counsel, so that if there was any antagonism regarding our request for data, and how the data were intended to be used, the antagonism could very well spring from the lawyers as well as from the Bureau of Natural Gas.

Mr. CHUMBRIS. Well, I do not think that there is any better evidence of conflict of opinion than this subcommittee. That is a perfect one and I think it is a healthy situation, not only among staff but among the nine members of the subcommittee. And it is not political because it is not a Democratic-Republican line. It is on a line as to how each of these Senators view an economic issue or legal issue, or strictly a political issue. Now, so it is healthy that you have a situation where the lawyer will fight to the death and so will the economists. But, when you come to a situation, and this is one of the things that came out during these staff interviews, but when you come to a situation where once your case is presented, and a ruling is made, how do you view it then? I mean when you lose, do you run to somebody else and try to win your battle outside of the structure of the law? And there are some hints to that, about leaks, and I think you mentioned it on pages 47 and 48 of your paper here on the tapes, the question of leaks. I was not going to get into that until this colloquy came up.

Mr. WALD. Yes. I would say that this rivalry which you describe between the lawyers and economists is healthy provided that the rivalry is played according to fair rules. There must be clean play. And to speak frankly, there has not always been clean play, and this has been a concern of our office and I think this is really behind these leaks which you have referred to, the leaks to the press.

Mr. CHUMBRIS. I have no further questions, Dr. Wald. You have been with the Power Commission since July 1963?

Mr. WALD. That is correct.

Mr. CHUMBRIS. You have completed some 10 years. You have been there at a time when the gas supply was great and, as you pointed out, there was no need for some of these studies. And you were there when

it reached midpoint and then you are also there now that it is tailing off. And I think you stated for the record that in 1970, this Commission was one of the first Commissions that moved in an area to try to do something about that problem.

Mr. WALD. That is correct, sir.

Mr. CHUMBRIS. That you very much.

Senator KENNEDY. Thank you very much.

Mr. Webster Maxson?

Mr. Maxson, do you swear that the evidence you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

STATEMENT OF WEBSTER P. MAXSON, EXECUTIVE DIRECTOR, FEDERAL POWER COMMISSION

Mr. MAXSON. I do.

Senator KENNEDY. Would you be kind enough to give us your full name and, briefly, describe your duties with the Power Commission?

Mr. MAXSON. I am Webster Maxson. I am Executive Director of the Federal Power Commission, and I have served in that capacity since early October 1969. The Commission is an agency of some 1,200 employees with a variety of regulatory responsibilities which necessitates some kind of housekeeping chief to relieve the Chairman for substantive kinds of consideration of the Commission's problems. So, I handle, in general, whatever administrative responsibilities come along.

Senator KENNEDY. Now, prior to May 21 of this year, did the Commission have any rules or guidelines concerning destruction of documents or records?

Mr. MAXSON. The Commission has a 1959 administrative manual instruction which is tantamount to a rule concerning the custody and destruction of documents. It is not directly relevant here. It concerns files, generally.

What is directly relevant here is the order in R-405, both the original order of 1970 and the order of September 12, 1972. These address themselves specifically to the records in question.

Senator KENNEDY. And what were those guidelines?

Mr. MAXSON. The order issued initially in R-405 on November 4, 1970, provided as follows, with regard to the confidential data to be collected from the companies:

Information revealed to the staff shall be treated as confidential information, without public disclosure under the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 71 (g), and the Freedom of Information Act, 5 U.S.C., 552(b), N . 4. Compliance with the Order shall not constitute nor be construed as a waiver of any claim of privilege by any producer.

That was the provision of the first order.

The second order issued September 12, 1972, reads as follows, with regard to this confidentiality provision:

For the purposes of this investigation, no responses submitted in compliance herewith shall be made available for inspection or copying by the public. Individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717(g)(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (9).

Senator KENNEDY. Now, what do the words "maintain confidential status," mean to you?

Mr. MAXSON. To me, it clearly means that the designated custodian shall keep the records in his custody until he receives some other directions, not that either one of these orders authorizes or directs the custodian to make a judgment as to when he no longer needed them, nor to destroy them upon a date certain or otherwise addressed itself to destruction. It said maintain them and to me that means keep them.

Senator KENNEDY. Well, now, if a person destroys a record without authority that person would have violated these regulations; is that correct?

Mr. MAXSON. Yes, sir.

Senator KENNEDY. Now, specifically, with regard to 405 update, did you give any instructions, either orally or in writing, about maintaining or destroying the documents?

Mr. MAXSON. I did not.

Senator KENNEDY. You did not give any order whatsoever, that they should be destroyed?

Mr. MAXSON. I was not a participant in R-405 in any way except that I was present at the Commission meetings at which the proceeding was considered, until May 21, when I learned of the attempted destruction.

Senator KENNEDY. How did you learn of the attempted destruction?

Mr. MAXSON. The Chairman called me in, Chairman Nassikas of the Federal Power Commission, and advised me that he had just been informed that the company data and worksheets collected in the R-405 update had been destroyed. He was distressed beyond description. He wanted me to find out immediately what had happened here, who was responsible for the destruction, and then he instructed me in the same breath to undertake a comprehensive investigation of the entire matter and report to him.

Senator KENNEDY. And did you?

Mr. MAXSON. Yes, sir, I did. I filed with him and with the committee a report of my understanding of the matter as of June 25, and my investigation is continuing and will be concluded as soon as the committee has completed these hearings, in the event that this hearing record includes something not in my findings.

Senator KENNEDY. Now, at any time you have been in the Power Commission, have you ever given an order to destroy material?

Mr. MAXSON. No, sir.

Senator KENNEDY. So, you have never given an order to destroy?

Mr. MAXSON. To the contrary. We have talked about, in staff discussions, custody and retention, not destruction. Never have I received or given an order to destroy records.

Senator KENNEDY. You have talked to whom about retaining and maintaining information?

Mr. MAXSON. The Bureau and office heads generally. I never discussed it with the staff personnel who are appearing here; that is, Mr. Mangan or Mr. Kofkin.

Senator KENNEDY. Well, do you know whether you ever had such discussions either with Mr. Joyce or Mr. Wald?

Mr. MAXSON. Yes, sir.

Senator KENNEDY. About what?

Mr. MAXSON. I talked with Mr. Joyce specifically about retention of documents.

Senator KENNEDY. When was that? Was that after the destruction of this material or before?

Mr. MAXSON. Before. The conversation I remember began at the time we were structuring the national gas survey, which is to be distinguished from R-405. There we planned a comprehensive audit of company records to determine the reserves available, not just uncommitted reserves such as were involved in R-405, and an elaborate and extensive and time-consuming procedure was developed, involving employment of one of the large accounting firms as an independent accounting agent; the establishment of a statistical validation team headed by a responsible statistician from the Office of Management and Budget, and an elaborate structure for the collection and evaluation and reporting of the national gas reserves. It was during the development of this that I had considerable discussions about retention of records.

Senator KENNEDY. When was that again?

Mr. MAXSON. As I understand it, the Commission, before the present Chairman arrived, asked for money in 1968-69 to conduct this extensive reserve audit. We finally got the money in December of 1970, and that is when, or shortly before that, in the preparation of the justification for the budget request, that we started talking about these things, in 1970.

Senator KENNEDY. Well, when did you come with the Commission?

Mr. MAXSON. October 9, 1969.

Senator KENNEDY. But from 1969 through the present, you do not recall any instance where you approved the destruction of any material?

Mr. MAXSON. I am sure there was none.

Senator KENNEDY. Are you aware, from your own information, or information that has been available to you, of the destruction of any other material besides this, or any attempted destruction before R-405?

Mr. MAXSON. Following this incident in R-405, we have made a search for the records collected and the worksheets collected in prior proceedings of this nature, where we went to look at intrastate gas in area rate proceedings, and in our 69-1 records, they are complete and are available and being worked on by the staff. There are, I understand, other proceedings, collections in prior years where the records are not available. We cannot find them. We have searched, made an exhaustive search of the files, and cannot find the records.

Senator KENNEDY. Well, do you know whether they were destroyed?

Mr. MAXSON. I do not know.

Senator KENNEDY. You do not know, but they are not available?

Mr. MAXSON. I know they are not available.

Senator KENNEDY. But, since you have been part of the Commission, you know of no other instance where the records have been destroyed or attempted to be destroyed?

Mr. MAXSON. That is correct.

Senator KENNEDY. Well, are you familiar with the burn bags?

Mr. MAXSON. Yes, sir.

Senator KENNEDY. Do you know that they have burn bags over in the department?

Mr. MAXSON. General Haig's office in the White House recently wrote a new Executive order on classified materials. Now, these are the materials which are withheld by reason of national security, to be distinguished from commercial or business information. We do have an elaborate regulation of our own, implementing the administration's Executive order and directive. We have safes, we have records of what is in them, and the disposition of each, who sees them, who opens them, and when. We have burn bags and destruction procedures. All of that relates to national security materials and not to the material here in question, commercial information.

Senator KENNEDY. When you destroy national security material, does it have to be cleared with you?

Mr. MAXSON. No. Since this incident, the Chairman has directed that there will be no destruction of anything, that is, national security material or anything else, except upon his direct order. There have been orders from the State Department, for example, issued to us—a directive which was to be classified confidential, and then a subsequent update of that directive, and they have furnished us with a new copy and they issued the order to destroy the old one, old copy upon receipt of the new one. The Chairman has even superseded their order, in fact, and wants nothing destroyed except upon his personal consent or direction. This is not a policy, it is only a change in procedure. The procedure and policy, as long as I have been there, have been not to destroy anything. We do not have anything to hide. We have nothing to destroy.

Senator KENNEDY. Why was that not put in writing?

Mr. MAXSON. It was. The specific terms I have read into the record by the Commission order.

Senator KENNEDY. But, are there any personal regulations or personnel rulings about that?

Mr. MAXSON. No, there are not. There was one in 1959, the administrative manual instruction, which does not address itself to the point.

Senator KENNEDY. I think in your interview you make these comments, "even though the use has ceased, we have a hard and fast rule that they are to be maintained. If the custodian therefore perceives no possible further use, he can have them destroyed only if the Chairman, himself, signs off." Is this a rule imposed by the present Chairman?

Mr. MAXSON. That is correct.

Senator KENNEDY. How long has that been in effect?

Mr. MAXSON. About 5 minutes after he found out on May 21, that these records were destroyed or submitted for destruction.

Senator KENNEDY. Well, what was the ruling before? I mean, what was the understanding before?

Mr. MAXSON. The understanding was a general policy to retain all records. There is no reason to destroy any of these company records. There is a very substantial reason for retaining them. If any question arises as to the validity of any published or unpublished document, we ought to have the backup material. We have always operated under that attitude, as far as I know.

Senator KENNEDY. Well, do you know of your own knowledge, whether Mr. Joyce and Mr. Mangen had such an understanding?

Mr. MAXSON. I do not know what their understanding was. From my conversations with Mr. Joyce, as I say I never talked to Mr. Mangen, there was no misunderstanding that our policy was to retain all company data on whatever we collected. In fairness to Mr. Mangen, I do understand that his view is otherwise. He believes that we have always destroyed records upon the end of their usefulness.

Senator KENNEDY. Do you know of any discussions between Mr. Joyce and Mr. Mangen which you have referred to, I think in your staff interview? I will read you the part just to refresh your recollection.

Q. How do you know Mr. Joyce advised Mr. Mangen that none of the material should be destroyed unless approved by the Chairman.

A. I happened to be in on the discussion at the time, what we were doing, that the occasion for the destruction was to distinguish this process from the Natural Gas Survey process; that is, this procedure carries from that.

Mr. MAXSON. That is correct. I had forgotten that particular conversation. I know that the Office of Economics brought to Mangen's attention errors in the February reported figures, and errors in the March 21, in reverse order, errors in the March 21 concentration ratios. These errors were brought to Joyce's attention and Joyce talked to Mangen, and I assume—

Senator KENNEDY. When was that? When was the conversation?

Mr. MAXSON. I would have to defer to Mr. Kofkin and the others, Mr. Mangen. My understanding is that on March 22 the Office of Economics received some BNG, Bureau of Natural Gas, concentration ratios which they had requested. Prior to that they had received the public release on the nationwide figures for uncommitted reserves as a result of R-405. My understanding was that they received those public releases February 27 or somewhere along in there. Kofkin very soon found the apparent errors in the concentration ratios, and subsequently found minor errors in the national release, the press release on the national figures. He went to Mangen and Dr. Wald, I believe, went to Joyce. The press release was corrected. It was a very minor error. It was not a minor error as far as the concentration ratios were concerned. I understand it was either a misplaced decimal point in the multiple or something. It was a large figure. Instead of 40 million it was 400 million MCF of something like that. But, Mr. Mangen denied ever getting any instructions from Mr. Joyce concerning this destruction of the records.

Senator KENNEDY. You mean that he did or did not get the instruction?

Mr. MAXSON. He did not get any instruction either way. He claims Joyce did not tell him. He did not consult Joyce.

Senator KENNEDY. Does the FPC have a security officer?

Mr. MAXSON. Yes.

Senator KENNEDY. Do you know what his name is?

Mr. MAXSON. Hryskanich and the assistant is George Vivian.

Senator KENNEDY. Prior to May 21, did you ever discuss the matter of retaining under nondestruction of documents?

Mr. MAXSON. Yes.

Senator KENNEDY. Can you tell us when?

Mr. MAXSON. No, I cannot place the dates, but it was an irrelevant conversation for these purposes. In other words I had many conversations with the security officer relative to our development of procedures to implement the national security regulations, regulations governing the national security material. I have talked with both Hryskanich and Vivian many times since May 21 about the destruction of other documents, but I do not recall any specific conversation before that. It is very likely that they were a part of the general bureau office head discussions concerning destruction of documents, but there is a somewhat greater likelihood that they were in such discussions because they were the people that sent things to area chiefs and GSA records centers, and they were the people who authorized GSA to destroy out of the Archives, and they were the people who worked in this area, and I assume I talked to them. I cannot recall any specific instances.

Senator KENNEDY. Would that not have been a part of your responsibility?

Mr. MAXSON. Yes, sir.

Senator KENNEDY. To familiarize them with the various security procedures within the agency?

Mr. MAXSON. No. It is rather the other way around. If your question is whether I would familiarize them with any policy development in this area, as far as regulations go, they tell me more than I tell them about what the Government's regulations are with regard to these national security documents.

Senator KENNEDY. Were you in a meeting with Mangen and Joyce when Joyce told Mangen not to destroy AR405?

Mr. MAXSON. No. I am sure there was not a specific direction in that meeting where Mangen and Joyce and I were present.

There could have been, but not a specific direction.

Senator KENNEDY. Well, was there discussion about the destruction? Was there a general kind of understanding?

Mr. MAXSON. Not that I recall. There was a discussion as to custody; in other words, the order requiring Mangen to hold these records in confidence.

Senator KENNEDY. Well, do you remember that Mr. Joyce told Mr. Mangen in your presence that nothing could be destroyed save with the approval of the Chairman of the Commission?

Mr. MAXSON. No, I don't remember that. I remember his saying that the confidence could not be broken, that the records could not be released to anyone except by Commission order or amendment of its order.

Senator KENNEDY. Could the company send in reserve information to the Commission on the condition that the material be destroyed or returned to the company?

Mr. MAXSON. The inquiries I know anything about are the national gas survey and R-405. I was not in any way involved in AR 389 or 69-1. The understanding with the companies in R-405 was that any materials they furnished to us for these purposes would be held in confidence. In general there had been in the past no submission of records. It was only here in R-405 where they had to send in company data. But there was no understanding that these companies would receive back these data they submitted.

Rather, only that the agency would hold the data in confidence. Senator KENNEDY. How is the material maintained? Was the confidentiality of the materials that you looked at maintained?

Mr. MAXSON. From my investigation I am sure it was very closely held by Mr. Mangen once received. He kept it in his own office under lock and he allowed one of his assistants, I believe it was Mr. Pavetto, who worked with him on the figures making the extractions and composites necessary, and he allowed Miss Joyce Powell, his secretary, to copy off confidential figures on the schedules which she had typed. But, I think otherwise there was no deploying of the original documents or of his own worksheets except in aggregated form.

Senator KENNEDY. Now, I have a memorandum from the head of the gas supply section to Commissioner O'Connor, which will be made a part of the record, on a method used by the staff to protect the confidentiality of gas reserves during confidentiality filings.

[The memorandum follows. Testimony resumes on p. 896.]

United States Senate

MEMORANDUM

Photocopy

12/2/76

*Mr. Clegg,
Mr. Joyce
Mr. Albares*

CD 12/2/76

The draft copy of this memo was reviewed with Mr. Wakefield of the Office of General Counsel. He suggested some changes which were incorporated into this final version.

He did not see this final version, because he was leaving town. However, it was read to him over the phone and he thought it was OK.

Ed Albares

05 JAN 1971

MEMORANDUM TO: Commissioner O'Connor
FROM : Head, Gas Supply Section
SUBJECT : Methods Used by Staff to Protect the Confidentiality
of Gas Reserves Data During Audits of Confidentiality Filings.

Over the years the staff has gradually developed techniques for handling confidential data. The procedures listed below are the results of these experiences and are recommended for use in dealing with confidential information.

Although developed primarily for use with reserves data, the techniques are applicable to other kinds of confidential information. These techniques can be used with any sampling method or on a total universe basis.

Used selectively, they could be used for office only or field only audits and investigations. However, they are primarily designed for the more difficult situation where the investigation is carried on at two levels, office and field.

The two-fold plan developed for the protection of confidential reserve information during the auditing process is set up as follows:

A. Procedures in Washington, D. C. office.

1. Only one person permitted to handle the confidential data submitted by either the reporting company or the field audit teams.
2. Confidential data are submitted to the responsible staff member either by mail, or in person in the Washington office or at designated other locality.
3. Codes are issued for all companies and all data submitted are extracted by code only.
4. All work papers and code lists are locked in BNG safe when not in use.

- 5. All company documents are returned to the company on day of receipt after data are extracted.
- 6. All confidential information not returned to the companies and all work papers are destroyed as soon as possible after no longer needed. Only composited totals are retained.

The above procedures are followed when the staff is responsible for the composite of the data or, as a check when a third party is responsible for the composite.

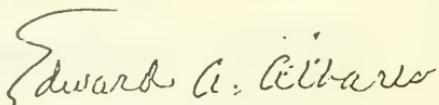
B. Procedures followed in the field by staff audit teams.

1. Every effort is made to keep any company from knowing which other companies are being audited.
2. All business is conducted through the company contact man or his designated representative.
3. At no time is staff to be alone with company records. Company representatives are to be present throughout the audit, including the telephoning of results to the Washington office.
4. When Washington office is called only the volumes of reserves as estimated by company and by staff are given. The company is not identified either by name or code.
5. No staff notes are removed from the company office either during lunch or work breaks or overnight. When audit is completed all staff notes and work papers are left with the company or destroyed in the presence of company representatives.
6. Companies are permitted to search briefcases and persons of staff team when staff leaves company office, if so desired, to assure that no company confidential data are removed.
7. Upon completion of audits of all companies involved in a particular audit all lists are destroyed which contain names of companies audited, estimated and actual times of audits and people contacted. The field audit team does not maintain a listing of the audit results.

8. The staff field audit team is not permitted to accept gratuities of any kind from the company representatives, either on a company or personal basis. No after hours contact with company personnel is permitted.

The above procedures are designed not only to protect the confidentiality of the company data but also to protect the staff from charges of conflict of interest.

When the entire audit is completed the staff will have in its possession a list of the companies responding (without reserve volumes), a total of the reserves reported, a total of the audited reserves as estimated by the companies, and a total of the audited reserves as estimated by the staff field audit team.



Edward A. Albares

BNG
National Supply Team:cas
12/02/70

cc: All Commissioners
Mr. Joyce
Mr. Curry
Mr. Gooch
Mr. Wakefield

Senator KENNEDY. In that memorandum it says, "All company documents returned to the company on day of receipt after data are extracted." And then point number six, "All confidential information not returned to the companies and all work papers are destroyed as soon as possible after no longer needed. Only composited totals are retained."

Mr. MAXSON. That memorandum was written in 1970, perhaps responsive to a question from Commissioner O'Connor, now no longer with the Commission. But at any rate it purports to be a description by Mr. Albares of the handling, or methods for handling, of confidential data from the companies over the years. I think it says at the outset there that these are the procedures we have used "in the past." That procedure was not intended to be followed by this Commission and indeed was not.

Senator KENNEDY. Well, it says procedures in the Washington, D.C. office.

Mr. MAXSON. That is true.

Senator KENNEDY. And it says January 5, 1971. And I suppose that point number six talks about the destruction of materials.

Mr. MAXSON. There is a note on the front which indicates it was written in early December 1970 and it was written by Mr. Albares and he says this is a description of the procedures followed for or developed over the years by the Washington office and the field offices in handling these kinds of materials.

Senator KENNEDY. Well, have you had any further corresponding memoranda that came out afterwards, either supporting those provisions, or countering them?

Mr. MAXSON. No one asked me for one, but they apparently asked Mr. Albares for one, but that one never came to my attention.

Senator KENNEDY. You mean the head of the gas supply section could suggest procedures on the issue of confidentiality, and it could go to all of the Commissioners and Joyce, and Curry and Wakefield, and not go to you?

Mr. MAXSON. No. If he were suggesting procedures I am sure it would come to my attention. I do not understand that to be the case here. I think that since it was addressed to Commissioner O'Connor that it was perhaps responsive to a question from Commissioner O'Connor. It was not advanced as a proposal by the Bureau of Natural Gas to the Commission that it follow the procedure supplied there. It was rather a recounting of what had been the procedure in the past.

Mr. BANGERT. Senator, I wonder if I could just clear up one point on the conversation?

Senator KENNEDY. Yes.

Mr. BANGERT. During your staff interview, Mr. Maxson, you said:

In the instant case apparently Mangen had been designated in the Commission order by the suggestion of the Bureau of Natural Gas because he had similar responsibilities previously in other proceedings.

You were asked:

Q. And when he was designated investigative custodian officer, who approved of the Commission rule requiring the Chairman's approval before the documents could be destroyed?

MAXSON. In this case it was Mr. Joyce.

Q. When did that occur and was it orally or in writing?

A. I am not sure whether there was any writing. I know it was done orally at the time of the updated order about our AR-405, September 12, 1972. I am not sure what the experience was at the time of the original order.

And then the question:

Q. How do you know that Mr. Joyce advised Mr. Mangen that none of the material should be destroyed unless approved by the Chairman?

A. I happened to be in on the discussion at that time on what they were doing, that the occasion for the discussion was to distinguish this process from the natural gas survey process.

Now, my understanding is that now you claim that meeting did not take place?

Mr. MAXSON. No. I recall a meeting. I do not recall—my recollection is faulty as to what was said but I do not recall Mr. Joyce's giving that kind of direction. I remember there were some very firm statements made about the confidentiality and how closely the materials must be held. But, I do not recall any such specific instruction concerning the destruction of the documents when they were through with them or anything like that.

Mr. BANGERT. Then you would indicate that your previous statement in the staff interview was inoperative, is that correct?

Mr. MAXSON. No. When did I make a statement?

Mr. BANGERT. This is on page 44 of the staff interview.

Mr. MAXSON. Was that in June of this year or July of this year, something like that?

Mr. BANGERT. It was in June, on June 15.

Mr. MAXSON. My recollection does not accord that closely now with what is said there. I just do not remember that well now.

Mr. BANGERT. All right. Well, then, in that same interview, on page 52, you indicate the instruction to all people who handle confidential data other than national security material and the instruction to the security officer with respect to the handling of everything other than national security material is nothing be destroyed unless the Chairman approves its destruction.

Q. Is that an oral or written instruction to the security officer?

A. Oral.

R. Who gave it to the security officer?

A. I did.

Mr. MAXSON. That is correct.

Mr. BANGERT. So, you did advise Mr. Vivian prior to May 21 that nothing could be destroyed other than material of a national security nature without the Chairman's specific approval, is that correct?

Mr. MAXSON. I cannot say that. I am sure that it was said very definitely after May 21. I am sure there were discussions about the confidential handling of the materials with Vivian, and his predecessor, and whoever preceded him, but I cannot say definitely that before May 21 I told Mr. Hryskanich that nothing was to be destroyed without the Chairman's approval and that the policy of the Commission from August 1, 1961, from the time I came on board, was not to destroy any documents.

Mr. BANGERT. Did you ever tell Mr. Vivian this?

Mr. MAXSON. Yes. Yes, I told Mr. Vivian that. I did not tell him you must get the Chairman's approval, but you do this.

Mr. BANGERT. And I believe during the staff interview again you were asked how frequently are custodians reminded of this rule, and is the rule written or oral.

Mr. MAXSON. It is an oral rule and there have been three custodians since the chairman came in.

And so you gave instructions to all security officers not to destroy materials, is that correct?

Mr. MAXSON. I have no doubt about that, yes.

Mr. BANGERT. Thank you.

Mr. CHUMBRIS. Mr. Chairman?

Senator KENNEDY. Mr. Chumbris.

Mr. CHUMBRIS. There was one thing. The chairman has indicated he has a time limitation so I was going to waive questions but we got into a key point here. Mr. Vivian and Mr. Mangen are going to be witnesses in this proceeding and they are going to give their explanation which would take it out of the context of the colloquy that you just had with Mr. Bangert and I am going to let those witnesses speak for themselves rather than prolong the record on it. But, both Mr. Mangen and Mr. Vivian will explain why it was done in the way it was done.

Senator KENNEDY. Let me just ask, are you proposing to take disciplinary action against Mr. Mangen?

Mr. MAXSON. That has been proposed. He has been afforded an opportunity to explain why it should not be taken against him, and that decision will be made shortly.

Senator KENNEDY. What is the present status of that?

Mr. MAXSON. I have conducted a complete investigation of the matter, including taking the depositions of everyone involved. I am awaiting only the completion of these hearings in the hope that they may contribute or edify somehow, and then I think I will go ahead and make the decision in the matter.

Senator KENNEDY. Have you reached your own conclusion as to whether it was intentional or an honest mistake?

Mr. MAXSON. I have not.

Senator KENNEDY. Pardon?

Mr. MAXSON. I have not reached my conclusion.

Senator KENNEDY. Is not Mr. Albares the immediate superior of Mr. Mangen?

Mr. MAXSON. Yes, sir.

Senator KENNEDY. And he was the author of this memorandum?

Mr. MAXSON. That is right.

Senator KENNEDY. And to the best of your knowledge there is no other written material that has been made available which would outline the procedures for confidentiality, either by the Director or by the Security Division or by any other responsible authority within the Commission?

Mr. MAXSON. I would have to examine the documents. Recently we furnished to the Hart subcommittee some 127 instructions, directives, regulations and so on applicable since January 1, 1969, to our agency concerning the custody of documents and I would have to defer to the list or go to it and examine it myself to tell you whether there is another document. This memorandum you speak of was located only Friday by Mr. Albares in preparation for his testimony here. He was going through his own file, so it is not in the 127 documents previously submitted.

Senator KENNEDY. Are the R-405 original documents and work papers and the R-69-1 in existence today?

Mr. MAXSON. The R-405 original papers?

Senator KENNEDY. Yes.

Mr. MAXSON. I do not believe they are. The 69-1 papers I believe, are. But I am not sure of that. I defer to the inquiries of Senator Hart in this regard and our responses. I know this has been a question he has asked.

Senator KENNEDY. Do you have any impressions about the Office of Economics? What kind of a job have they been doing?

Mr. MAXSON. I, of course, am not an economist and I am not qualified to make a professional evaluation. I do take exception to the philosophy expressed by Dave Schwartz here, that if he has a different notion as to where this Commission ought to be going, it is his duty to work against the Commission. After all, you have had no chance to interrogate him in confirmation hearings. You did not choose him in the first place. We did not choose him in the first place. Why should he run his own little Commission, or anyone else? And I do not mean to pick on Dave in particular. He has openly expressed the idea here that

where a staff member's philosophy differs from that of the Commission he ought to seek a higher court and prosecute his own views.

Senator KENNEDY. Would you rather be able to appoint your own head of that department?

Mr. MAXSON. Yes, I think we would. It is definitely a policy job.

Senator KENNEDY. Have you recommended that?

Mr. MAXSON. Yes, we have.

Senator KENNEDY. And what has happened on that?

Mr. MAXSON. I think the Chairman turned it down, turned down my recommendation. Subsequently I have tried to have the chief accountant position made a schedule C position, which means it is replaceable at the pleasure of the employing authority, and the Civil Service Commission turned that one down.

I really believe that the head of all of these bureaus and offices which are policymaking offices in a regulatory commission, ought to serve at the pleasure of the Commission or the Chairman.

Senator KENNEDY. Thank you very much.

Mr. MAXSON. Thank you very much.

[The following was subsequently received from Mr. Maxson. Testimony resumes on p. 932.]

FEDERAL POWER COMMISSION,
OFFICE OF THE EXECUTIVE DIRECTOR,
Washington, January 24, 1974.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Administrative Practice and Procedure, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN KENNEDY: Attached is a copy of my "Final Report of Investigation of the Handling of Confidential Gas Reserves Data Filed in FPC Docket No. R-405." This was the subject matter of the joint hearings held with the Subcommittee on Antitrust and Monopoly on October 16, 17, and 18, 1973.

Very truly yours,

WEBSTER P. MAXSON,
Executive Director.

FEDERAL POWER COMMISSION,
OFFICE OF THE EXECUTIVE DIRECTOR,
Washington, January 23, 1974.

FINAL REPORT OF EXECUTIVE DIRECTOR'S INVESTIGATION OF THE HANDLING OF CONFIDENTIAL GAS RESERVES DATA FILED BY PRODUCERS PURSUANT TO THE ORDER OF THE COMMISSION ISSUED SEPTEMBER 12, 1972, IN R-405

On Monday, May 21, 1973, the Chairman of the Federal Power Commission was advised by the Chief, Bureau of Natural Gas, that the confidential producer reports of uncommitted natural gas reserves required by the Commission's order of September 12, 1972, in Docket No. R-405 had been delivered by the custodian of these reports to the FPC Alternate Security Officer for destruction, notwithstanding the requirement in the order that they be maintained in confidential status. The Chairman immediately ordered the Executive Director to conduct a complete investigation of the matter. On June 25, 1973, the Executive Director issued an interim report of his investigation, to that date. The following is a final report of the incident.

INITIATION OF THE R-405 UNCOMMITTED RESERVED STUDY

On November 4, 1970, the Federal Power Commission instituted a rulemaking proceeding, Docket No. R-405, Reliability of Electric and Gas Service, with the issuance of a "Policy Statement, Notice of Investigation, and Proposed Rulemaking with Respect to Developing Emergency Plans." The Notice of Investigation directed among other things, an extensive data collection from jurisdictional and nonjurisdictional production, transmission, and distribution electric and gas companies. Two Commissioners filed separate dissents. A copy of the order is attached as Appendix A.

The Notice of Investigation ordered large producers of natural gas to make available to FPC investigators certain company data concerning holdings on December 31, 1969, and October 1, 1970, of proven reserves which had not been contracted to pipeline companies for resale or to direct customers for immediate consumption. In eliciting this information, the order announced that although the information (and any underlying data which might be requested) would be required to be made available to staff investigators on an individual company basis, its confidentiality would be protected, and only composite figures would be made public. Thereafter, three FPC investigators designated by name in the November 4, 1970, order examined the company data in offices set up for purposes of the inquiry in Houston, Texas, Tulsa, Oklahoma, and Washington, D.C. There they copied the desired information onto staff worksheets from records brought to them by company representatives, and thereafter furnished it to the Commission for use in assessing the developing gas shortage situation.

ORDER UPDATING THE STUDY

On September 12, 1972, the Commission issued a further order in Docket No. R-405 entitled "Order Updating Nationwide Investigation." That order, which is the order involved in this investigation, called for similar information with respect to natural gas reserves as of December 31, 1971, and June 30, 1972, but prescribed a different procedure for its collection. Ordering Paragraph No. 1 directed the companies listed in Appendix A to submit written reports which responded item-by-item to the questionnaire set forth in Appendix B. The prescribed reports were to be filed with Mr. Lawrence R. Mangen, Gas Supply & Production Section, Systems Operations Division, Bureau of Natural Gas, at the Commission's headquarters offices in Washington. The filings were to be "plainly marked CONFIDENTIAL," and Ordering Paragraph No. 2 contained the following instruction concerning the handling of the reports filed:

"For the purposes of this investigation no responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (9)."

A copy of the updating order is attached as Appendix B.

Over the next few months all 79 of the large producers listed in Appendix A of the September 12, 1972, order filed with Mangen in Washington the required information with respect to their gas reserves available for sale or filed statements to the effect that they had no uncommitted reserves on the dates specified in the order. As the data were received, the company filings were closely held by Mangen, kept under lock in his office, and generally were taken out only for purposes of extractions and computations by him or by Carl Pavetto or Joyce Powell of his section.

From the reports filed by the companies Mangen prepared several worksheets which identify figures with individual companies and therefore, like the company filings from which they were extracted, are confidential. In addition, Mangen produced some 43 worksheets which consist of schedules of aggregated figures, each of which does not reveal the reserves information of individual companies except by comparison with other information. Therefore these worksheets may or may not be confidential.

Although these tabulations, comparisons, and composites prepared by Mangen or under his supervision were examined by and discussed among Mangen, Pavetto, Joyce Powell, Thomas J. Joyce, Chief of the Bureau of Natural Gas, Frederick D. Cornelius, Chief of the Division of Systems Operations, and Edward A. Albares, Head of the Gas Supply and Production Section, Systems Operations Division, Bureau of Natural Gas, they were not made available outside Mangen's office staff or the hierarchy of Mangen's supervisors while this work was in progress because of the confidentiality of the data from which they were taken and the possibility of unintentional disclosure of individual company figures by comparison of different schedules.

PUBLISHED REPORT OF THE STUDY

By memorandum to the Commission dated February 9, 1973, the Chief of the Bureau of Natural Gas submitted a report prepared by Mangen from the company filings and the previous data collection. The memorandum included a summary schedule showing total large producer gas reserves available for sale on December 31, 1969, October 1, 1970, December 31, 1971, and June 30, 1972, and attached

three tables providing breakdowns of these figures by area and by nonassociated and associated-dissolved gas reserves. All of the information in the summary and in the tables was in composite form so that nothing in the report revealed confidential data of individual companies. On February 22, 1973, the reserves information provided in the staff report was published, with an appropriate news release. A copy is attached hereto as Appendix C.

THE INITIAL OFFICE OF ECONOMICS REQUEST FOR ACCESS TO THE CONFIDENTIAL REPORTS

On February 27, 1973, Dr. John W. Wilson, Chief of the Division of Economic Studies, Office of Economics, directed a staff economist in his Division, Mr. Melvin Kofkin, to attempt to learn from the information filed by the companies which individual producers and which areas accounted for the total reserves reported to be available for sale on June 30, 1972. He sent Kofkin a handwritten note instructing him to consult with him before contacting anyone in the Bureau of Natural Gas. Wilson's interest in the underlying confidential data, as it was explained by Wilson and Kofkin, was to try to learn what concentration of control of gas available for sale might exist, by company and by region, for use in testimony Wilson was scheduled to give in proceedings before the FPC.

Although Wilson knew of the importance and sensitivity of the data to which he sought access, and although he knew that the Commission, by formal order, had named Mangen custodian and directed him to maintain the data in confidential status, Wilson did not address his request for access through his superior, the Chief Economist. Nor did he address it to the Commission or the Chief, Bureau of Natural Gas, or the designated custodian. Rather, he sought access informally through a GS-11 employee in his office, and apparently instructed him to try to gain access through low-level employees who might be working with the confidential document.

Kofkin, after getting his instructions from Wilson on February 27, 1973, tried to gain access to the confidential company filings through various employees of the Bureau of Natural Gas whom he now is unable or unwilling to identify. He came ultimately to Mr. Victor Zabel, an employee of Mangen's Gas Supply and Production Section who Kofkin thought had access to the desired confidential records. When called by telephone by Kofkin on February 27, Zabel turned the call over to Mangen, and Mangen advised Kofkin that he was designated custodian of the company filings by Commission order and that he could not release them to anyone except upon further direction by the Commission.

In this initial telephone conversation with Kofkin on February 27, 1973, Mangen apparently made some reference to his intention to destroy the company filings following publication of the composited information on February 22, 1973, which Kofkin claims he understood as advice that the company filings already had been destroyed. Kofkin, on the same day, reported to Wilson that he had talked to Zabel, and that Zabel had told him over the telephone that the back-up data already had been destroyed. He did not admit to Wilson that he had talked with Mangen, the officially designated custodian. Wilson thereupon instructed Kofkin to do nothing further with respect to the matter and advised that he, Wilson, would take it from there. Wilson promptly took up with the FPC Chief Economist, Dr. Haskell P. Wald, the matter of his request through Kofkin and the Bureau of Natural Gas response.

Within the next three days, Wald met with Thomas J. Joyce, Chief of the Bureau of Natural Gas, and received from him an agreement to provide the Office of Economics with aggregated figures from the confidential filings showing the amounts of uncommitted reserves available for sale by the four largest producers and the eight largest producers, by area. This was on or about March 2, 1973. Thereafter Wald informed Wilson that these figures would be forthcoming.

On March 21, 1973, Joyce sent to Wald a memorandum furnishing the figures he had promised. These figures were prepared by Mangen. Joyce's memorandum noted that furnishing these composited figures did not violate the confidentiality requirement of the September 12, 1972 order, but he nevertheless requested that the composited report be treated as administratively confidential to avoid identification of particular producers' reserves by comparison with the published report. By handwritten note to Dr. Wilson, dated March 22, 1973, Dr. Wald transmitted the BNG composited report, indicating that at last the Office of Economics had received a response to his request and that he would "be interested in the percentages."

THE INITIAL SENATE SUBCOMMITTEE REQUEST FOR THE CONFIDENTIAL RESERVES DATA

By letter dated March 7, 1973, Senator Philip A. Hart, Chairman of the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, requested that the Federal Power Commission provide his Subcommittee and the Federal Trade Commission with certain information as to the manner in which the data in the updated nationwide investigation under R-405 was collected, verified and analyzed. The letter also asked for the confidential figures showing the uncommitted reserves of each of the 79 producers who filed reports in R-405, together with the identity of each individual producer's pipeline customers, the amounts of gas sold to each, and the prices obtained therefor during the 1970 to mid-1971 period.

By letter of March 20, 1973, from Thomas J. Joyce, Chief of the Commission's Bureau of Natural Gas, Senator Hart was supplied with the requested information, except the detailed data on specific reserves held by individual producers. As to this latter information, Senator Hart was advised that the requested information was confidential in its disaggregated form in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (a). This letter was prepared for Joyce's signature by Mr. Mangen.

SUBSEQUENT OFFICE OF ECONOMICS REQUESTS

Apparently Wilson allowed a week or more to go by before he delivered to Kofkin the March 21 composited data furnished to OEC pursuant to his request and asked Kofkin to pick up where he left off on February 27, 1973. On or about April 2, 1973, Kofkin called Mangen to point out substantial errors in the March 21 composited data, and apparently again requested access to the underlying producer reports so that he might locate and correct the errors. Instead, Mangen indicated he would provide the corrections, and Kofkin came to Mangen's office the next day to receive corrected figures from Mr. Pavetto. The following day, April 4, 1973, Kofkin was again in touch with Mangen, claiming errors in the published staff report of February 22, 1973. On that occasion he was advised by Mangen that those figures could not be corrected because Mangen no longer had the back-up data from which they were compiled. (An augmented report was issued on June 25, 1973, which corrected certain minor posting errors in the February 22, 1973, report.)

By memorandum of April 6, 1973, Kofkin transmitted to Wilson a schedule setting forth concentration ratios for the four and eight largest producers, by area, apparently prepared from the report published on February 22, 1973, the administratively confidential report furnished to Wald by BNG dated March 21, 1973, and the corrections to the latter report supplied by Pavetto on or about April 3, 1973. Kofkin's covering memorandum to Wilson attempts to detail the errors in the February 22 published report, but indicates that although the errors in the March 21 composite report were corrected by Mangen's office following their disclosure on or about April 2, 1973, the errors in the earlier published report could not be corrected because, he was told by Mangen, all of the back-up data had been destroyed sometime during the week of March 25, 1973.

THE ATTEMPT TO DESTROY THE CONFIDENTIAL R-405 DOCUMENTS

On April 9, 1973, Mangen, as supervisor of the "National Supply Team," a group of FPC professionals utilized for natural gas reserves audits, filed with the Bureau of Natural Gas a status report on the various undertakings of his office. With respect to the R-405 data submissions pursuant to the September 12, 1972, order, Mangen reported "Work papers destroyed."

On various occasions following Kofkin's February 27, 1973, request for access to the confidential company reports Mangen indicated to his staff members, Pavetto and Joyce Powell, and possibly to Albares and others that he intended to destroy the company reports to get the Office of Economics "off his back." Mangen claims that such remarks were made in jest, and Pavetto and Joyce Powell, who confirmed the fact that the remarks were made, indicate that such remarks could have been made in that vein.

Notwithstanding whatever remarks Mangen may have made or whatever advice he may have given Kofkin or others concerning the destruction of the confidential R-405 papers, Mangen still maintained the file in his possession in his office in mid-April 1973, with the exception of the confidential filing of the Humble Oil Corporation (now Exxon) and that of the Pioneer Production Corporation. Upon the request of Humble's representative, Mangen had returned Humble's filing to the company presumably after the correction of the March 21, 1973, memorandum on the reserves of the four largest and eight largest producers which was given to Kofkin on April 3, 1973. As for the Pioneer Production Corporation filing, it apparently was timely filed by mail, but was misrouted by the FPC mailroom to the wrong office and included in a case file, where it was discovered after May 21, 1973, and then deposited with the Bureau of Natural Gas. (When the return of the Humble filing was first called to the FPC Chairman's attention on May 21, 1973, the Chairman directed that a demand be issued for the immediate return of the filing to the Federal Power Commission, and he instructed the FPC General Counsel to issue a subpoena for the document if it was not returned promptly. The company promptly re-filed the report.)

At some point during the second or third week in April 1973, Mangen advised his Section Head, Albares, that he then was about to destroy the R-405 company filings and the worksheets prepared from those filings. According to Albares, he suggested to Mangen that before undertaking to destroy the records, Mangen should obtain the approval of the Chief of the Bureau of Natural Gas, Thomas J. Joyce. Mangen did not consult Joyce concerning the destruction of these papers and does not claim that he consulted anyone else.

On or about April 23, 1973, Mangen called George Brent Vivian, the FPC Assistant Security Officer and custodian of classified national security information in the possession of the Federal Power Commission. Mangen explained to Vivian that pursuant to a Commission order he had been appointed the custodian of certain confidential gas reserves records, that a staff report thereon had been published by the Commission, and that the records, because of their confidentiality, now should be destroyed to prevent unauthorized disclosure of the individual company data set forth therein. Mangen asked Vivian if he would undertake to have the records burned. Vivian indicated that his responsibility for classified documents extended only to national security materials but that he would be pleased to render the service requested the next time he visited the incinerator. The file was then delivered by Mangen to Vivian's office. After inquiring generally as to the nature of the documents, Vivian accepted them and put them in a safe. He provided Mangen with no receipt since these were not classified documents within the system prescribed by Executive Order 11652, March 8, 1972, for the handling of national security materials.

Thereafter, Vivian removed the R-405 documents from the safe, tore each of the papers into four pieces in the presence of a witness, Mrs. Sue Hyde, Administrative Assistant to the Chief, Office of Administrative Operations, placed them in a "burn bag" with other materials so prepared for burning, and returned the burn bag to the safe to await his next trip to the incinerator.

SUBSEQUENT SENATE SUBCOMMITTEE REQUEST FOR THE CONFIDENTIAL R-405 COMPANY REPORTS

By letter dated May 18, 1973, Senator Hart requested Chairman Nassikas to appear before the Senate Judiciary Subcommittee on Antitrust and Monopoly on June 6, 1973, to testify concerning the extent of competition in the natural gas industry and the potential impact of deregulation of producers. The Senator's letter referred to his March 7, 1973, request for the confidential information on uncommitted reserves collected in R-405, noted its relevance to the Subcommittee inquiry, and requested that the Chairman supply all of the confidential information theretofore denied. In addition, the Senator requested all minutes, memoranda, and other instructions respecting the use and disposition of this confidential information, including those relating to the previous denial thereof by the Chief, Bureau of Natural Gas.

Senator Hart's letter was received in Chairman Nassikas' office at 9:33 a.m., Monday, May 21, 1973. The Chairman immediately called in Mr. Joyce, Chief of the Bureau of Natural Gas, to begin the process of assembling all of the papers and information which appropriately could be furnished to the Senate Subcommittee. When he left the Chairman's office, Joyce consulted with Mangen concerning the materials he would have to prepare for presentation at the Subcommittee hearing.

Joyce learned for the first time in that conversation with Mangen on the morn-

ing of May 21, 1973, that Mangen had delivered the confidential R-405 file to the FPC Office of Administrative Operations for destruction. Joyce was greatly distressed by this advice. He viewed Mangen's action as a very serious matter and so informed Mangen. Upon Joyce's order, Mangen went immediately to Vivian to learn whether the documents had been destroyed, while Joyce reported the situation to the Chairman. In fact, Vivian had not burned the R-405 papers and still had them, torn as described above, in the burn bag in his safe. Mangen instructed Vivian to hold the burn bag in the safe and reported back to Joyce, who in turn reported back to the Chairman. The Chairman thereupon ordered the complete file reassembled, and the torn documents taped back together as soon as possible.

As soon as he learned that Mangen had delivered the R-405 confidential materials for destruction and before he learned that they in fact had not been destroyed, Chairman Nassikas ordered a complete investigation of the matter by the Federal Power Commission Executive Director.

The scheduled June 6, 1973, hearings before the Antitrust and Monopoly Subcommittee were subsequently rescheduled to be held beginning June 26, 1973. During the evening of June 21, 1973, two members of the staff of the Senate Judiciary Subcommittee on Antitrust and Monopoly served upon the Chairman of the Federal Power Commission a subpoena signed by Senator Hart in behalf of the full Senate Judiciary Committee commanding him to appear before the Subcommittee at 10:00 a.m. on June 26, 1973, and to bring with him "all memoranda, documents, and writings of any nature whatsoever" relating to the Commission's September 12, 1972 order in R-405, including the gas reserves reports received in confidence from producing companies and all workpapers prepared therefrom. A copy of the subpoena is attached as Appendix D.

On the following day, June 22, 1973, the Commission issued an order in R-405 modifying its September 12, 1972, order to authorize the Chairman of the Commission to comply with the subpoena. Two Commissioners filed separate concurring statements. A copy is included herewith as Appendix E. In response to the subpoena, all papers in the possession of the Commission relating to the R-405 September 12, 1972, order and the uncommitted reserves study directed therein were presented to the Subcommittee at the June 26 hearing, with a request, as specified in the June 22 order, that the Subcommittee maintain the confidentiality of the producer reports and confidential workpapers.

THE SUBCOMMITTEE INVESTIGATION OF THE ATTEMPTED DESTRUCTION

On June 11, 1973, Senator Hart, as Chairman of the Senate Judiciary Subcommittee on Antitrust and Monopoly, wrote to Chairman Nassikas referring to a *Washington Post* newspaper article which reported that "high ranking Commission personnel" had attempted to destroy the R-405 company filings. Senator Hart's letter gave notice that he had instructed the Subcommittee staff to commence an immediate investigation to ascertain all of the facts bearing upon the incident for purposes of "a full public accounting by all responsible."

On the following day, June 12, 1973, Chairman Nassikas responded, welcoming a thorough investigation of the entire matter and offering the complete cooperation of the Commission and its staff. The letter suggested, in the interests of assuring a full public accounting, that a stenographic transcript be made of all interviews by the Subcommittee staff, that a copy of the FPC Executive Director's Report of Investigation be furnished to the Subcommittee investigators, and that the FPC General Counsel's office participate in all interviews.

Later that day, June 12, 1973, majority counsel for the Subcommittee met with the FPC Executive Director and General Counsel to make the necessary arrangements for the Subcommittee staff investigation. At that meeting it was made clear that the Subcommittee Chairman, Senator Hart, was insisting upon a secret investigation of the incident, with no participation by the FPC Office of General Counsel, and no public disclosure of evidence revealed in the interviews to be conducted by his staff or even public disclosure of the identity of the persons interviewed while the investigation was in process.

On June 14, 1973, Chairman Nassikas wrote to Senator Hart acceding to the Senator's desire for a non-public investigation by the Subcommittee staff and reaffirming the Commission's intention to cooperate fully. However, the letter also reaffirmed the Commission's view that the FPC had both a duty and responsibility to the public to make a full disclosure of the facts and circumstances revealed by its investigation of the matter, and gave notice that a full public accounting would be made by the FPC upon completion of the Commission's investigation.

Thereafter the FPC Executive Director continued his investigation and, at the June 26, 1973, Subcommittee hearing, Chairman Nassikas placed in the record of that hearing a report of the Executive Director's investigation to that date.

The Subcommittee staff commenced its secret investigation on June 17, 1973, by summoning the first witness to a small office at 127 C Street, N.E., where he was asked to sign a statement waiving all of his civil rights and then was questioned for over five hours by three Subcommittee staff investigators on a wide range of subjects, many totally unrelated to the inquiry announced by Senator Hart. All questions and answers were tape-recorded. This process continued through the summer until everyone whom the Subcommittee staff thought might be involved had been summoned. Persons thus interrogated were instructed to discuss these sessions with no one. At no time was the FPC Executive Director advised by the Subcommittee staff of any of the evidence thus uncoveed or of the identification of the persons interrogated.

On October 16, 17, and 18, 1973, Senator Hart's Subcommittee held joint hearings on the attempted destruction of the R-405 reports with the Senate Judiciary Subcommittee on Administrative Practice and Procedure, at which the relevant evidence developed by the Hart Subcommittee investigation was spread on a public record. At those hearings a Subcommittee staff witness who had reviewed the confidential materials turned over to the Antitrust and Monopoly Subcommittee on June 26, 1972, pursuant to subpoena, verified the accuracy of the Federal Power Commission's published report of June 11, 1972, prepared from those materials.

PROCEDURES EMPLOYED IN PREVIOUS UNCOMMITTED GAS RESERVES STUDIES

At the Joint Subcommittee Hearings held on October 16, 17, and 18, 1973, Senator Kennedy, who presided, alleged that, at the Federal Power Commission, there was a pattern of destruction of confidential company reserves data. Consistent with this charge, Mr. Mangen testified that he attempted to have the confidential documents in his custody destroyed because this was the procedure employed in two previous surveys of uncommitted natural gas reserves in R-405 and in an earlier proceeding, Docket No. AR 69-1. It is necessary, therefore, as a part of this investigation, to review the procedures followed in previous FPC surveys of this nature.

AR 69-1 PROCEDURES

Docket No. AR 69-1 was a litigated case instituted to establish a just and reasonable area ceiling rate for the Southern Louisiana Area. On January 27, 1970, a prehearing conference was held in Houston, Texas, to consider the data requirements for the proceeding and to develop procedures which would appropriately safeguard company proprietary data. On the day following the conference fourteen major producing companies joined in a motion requesting the Commission to issue an order requiring the production of the uncommitted reserves data specified in two questionnaires which had been developed previously by the FPC staff, under procedures also developed by the staff.

On March 17, 1970, the Commission issued such order (43 FPC 444) attaching two questionnaires to be responded to by two different classes of producers. Under ordering paragraph (A), the completed questionnaires were to be mailed to an independent accounting agent, Arthur Young & Company, at Tulsa, Oklahoma, and ordering paragraph (B) required Arthur Young & Co. to furnish to all parties a composite of the individual responses as soon as possible and then return the responses to the companies. Ordering paragraph (C) required the companies to make the responses thus returned and all workpapers and other underlying data available for examination by FPC staff auditors upon the request of staff counsel. The order specifically provided that company compliance would not constitute a waiver of any claim of privilege in any future case, and all company responses and information revealed by staff audit were to be treated as confidential information by Arthur Young & Co. and by the staff under section 8(b) of the Natural Gas Act and the Freedom of Information Act.

By letter of June 3, 1970, from Commission staff counsel to the AR 69-1 producer-respondents who had reported uncommitted reserves pursuant to the order, it was announced that the staff was undertaking to verify the Arthur Young & Co. composite. It advised that only a record of the volumes reported would be retained by staff, without any record of the party controlling the reported volumes. To expedite this check on the composited figures, the companies were

requested to bring their reports to a designated office in the Federal Building in Houston, Texas, on June 17, 1970, where FPC staff would copy off the volume figures or, in the alternative, to bring or mail the reports to the FPC headquarters offices in Washington, D.C., prior to June 16, 1970, where the necessary figures would be transcribed and the company reports immediately returned to the respective companies.

The staff counsel letter also advised that field audits of selected companies would be made later to review the underlying data and the procedures by which the reported figures were determined.

For purposes of the first step in the procedures thus announced, that is, the verification of the Arthur Young & Co. composite, Mr. Mangen was selected by the Chief, Bureau of Natural Gas, as the only person who would actually see the companies' completed questionnaires, either in Washington or Houston, in order to ensure that their confidentiality would be maintained. Mr. Mangen extracted from each questionnaire the pertinent volume figures and entered them on worksheets which he had prepared. He also maintained a record of the company-respondents whose volumes he thus transcribed. As soon as each questionnaire was examined and the necessary figures extracted, Mr. Mangen handed back the questionnaire to the company representative, if it was brought to him in person, or mailed it back to the company, if it was sent to him by mail.

For purposes of the subsequent field audit, Mr. Mangen was selected by the Chief, Bureau of Natural Gas, to design the audit procedures and prescribe the sampling technique to be used. On June 29, 1970, a memorandum prepared by Mr. Mangen was sent to the Office of General Counsel describing the audit procedures to be employed. Mr. Zabel was placed in charge of the field audits, and the audit teams were provided with detailed instructions as to how they were to conduct the audits in individual company offices and report the results thereof by telephone to Mr. Mangen in Washington. During the course of the hearing in AR 69-1, the Arthur Young & Co. composite report was introduced in evidence (Exh. 27A) and the verification and field audit procedures were described in detail on the record together with the results thereof by Messrs. Mangen and Zabel (Transcript pages 5190-5207A).

In summary, the Commission's March 17, 1970, order directed Arthur Young & Co. to return all company questionnaires to the companies, to be held by them. No authority was given to destroy any company filings. Staff Counsel's June 3, 1970, letter directing verification of the composite report directed the companies to present the returned questionnaires to Mangen, and directed him, after extracting the figures needed, to return them immediately to the companies, to be held by them. It gave no authority to Mangen to destroy any company filings. The detailed instructions to the field audit teams specifically provided that they were to destroy or leave with the companies all of their workpapers after telephoning the results of their audits to Mangen. They were to take nothing from the company offices. However the instructions provided no authority to destroy any company papers. Therefore, while the AR 69-1 procedures developed by the Bureau of Natural Gas and apparently approved by the Federal Power Commission Office of General Counsel authorized the destruction of the FPC's staff auditor's worksheets prepared from the individual company's records as soon as information thereon had been reported to Mr. Mangen in Washington, these procedures did not authorize the destruction of company papers. These procedures were not reviewed or approved by the Commission. The issue of destruction of worksheets was raised by the Administrative Law Judge during the course of the litigation in AR 69-1. The issue was not argued on appeal to the Fifth Circuit. See *Placid Oil Co., et al. v. F.P.C.*, USCA 5, No. 71-2761, April 16, 1973.

Although Mangen ultimately destroyed the workpapers which he prepared during the course of the verification of the independent accounting agent's composite report and the subsequent field audit, it is evident that there is nothing in the AR 69-1 procedure which established a precedent for destruction of the company filings in R-405.

THE PROCEDURE IN THE INITIAL R-405 DATA COLLECTION

Paragraph 8 of the Commission's November 4, 1970, order initiating R-405 directed the collection of data concerning the volumes of uncommitted natural gas reserves. It announced that producers would be called upon by investigating officers to make such data and any underlying data requested available on an individual company basis. It provided that information revealed to staff would be

treated as confidential, and that compliance with the order would not constitute waiver of any claim of privilege by any producer. Mr. Mangen was not assigned any responsibility in this case, as he was in AR 69-1.

Paragraph 11 of the order designated James R. Tourtellotte, John W. Williams, and Paul L. Brady, staff attorneys, to serve as the staff investigators. On November 20, 1970, they sent a letter to 75 major producers, enclosing a questionnaire which detailed the uncommitted reserves information to be made available. To expedite the data collection and as a matter of convenience to the producer-respondents, two of the investigators with two engineers from the Bureau of Natural Gas set up offices in Houston, Texas, and Tulsa, Oklahoma, for the purposes of receiving the data as it was brought in by the companies. As each company came in, the investigators examined the materials they brought with them and copied the figures on FPC workpapers in the presence of the company representatives. If any questions arose, they were answered by examination and discussion of the underlying data which the company representatives brought with them. All company papers were handed back to the company representatives immediately after the required figures had been transcribed.

The worksheets onto which the figures were copied did not identify the reported volumes with particular companies. Instead, as each company made its data available to the investigators, the company was checked off on a list of the 75 major producers ordered to respond.

In some instances, the company representatives made their papers available to the investigators by bringing them to the Commission offices in Washington, and in a few cases the companies mailed the completed questionnaires to these offices. In every instance, as soon as the required information had been copied onto the staff workpapers, all of the company papers were returned to the companies.

Upon completion of the collection process, the staff composited the figures and reported the results to the Commission by filing its report with the Secretary on March 8, 1971. Thereafter, the staff workpapers, even though they did not identify by company the volumes reported thereon, were treated as confidential papers and were deposited by Mr. Williams for safekeeping in a safe in the Commission's Office of Administrative Operations. In the course of the Executive Director's investigation, all three of the designated staff investigators were questioned concerning the ultimate disposition of the workpapers in the initial R-405 survey, and all confirmed this ultimate disposition. However, a recent search of the materials stored in the Commission's safes has failed to produce those workpapers. It appears at present at least that these workpapers, at some point over the past two and one-half years were removed from the safe and discarded, perhaps when the FPC headquarters were relocated in a new building in April 1973.

In the initial data collection in R-405, as in AR 69-1, all company papers were returned to the reporting companies pursuant to specific direction. Nowhere in that process is there anything which might provide a basis for Mr. Mangen's destruction of the company reports in the present case. Unlike the prescribed procedure in AR 69-1, there was no direction to destroy even the workpapers. On the contrary, even they were preserved in a Commission safe.

THE NATIONAL GAS SURVEY

A fourth, more comprehensive, gas reserves survey conducted recently, the National Gas Survey, also is relevant in connection with the question of the Federal Power Commission's procedures for handling proprietary information.

By Order of December 21, 1971, the Commission directed a study and analysis of natural gas reserves and prescribed procedures for the National Gas Survey. The order provided that any non-public commercial information obtained in the survey would be "treated as confidential" unless otherwise directed by the Commission. The procedure prescribed in Appendix A to the order required that "all company-furnished data be evaluated at the companies' offices with no data or worksheets leaving the premises." Further, all independent reserve team worksheets prepared in the company offices were to be "preserved in the companies' offices until July 1, 1974." The independent reserve teams were to transmit a final reserve estimate for each field to an independent accounting agent. Upon acceptance of the independent accounting agent's report, the accounting agent was to dispose of all records which it prepared from the transmittals to it.

However, on March 9, 1972, the Commission issued an amending order which, first, reaffirmed the requirement that non-public commercial information obtained during the course of the survey "be treated as confidential" unless otherwise

directed by the Commission, second, found that the worksheet prepared by the independent reserve teams may be better protected if placed in the custody of the Technical Director of the National Gas Survey in Washington, D.C, and third, directed that the worksheets be sent to his office "and there preserved in the custody of the Technical Director" . . . , "subject to further order." All of the worksheets now are held in the Office of the Technical Director in accordance with this change.

This amendment marked a significant change. Whereas the procedures previously employed consistently required that the reporting companies produce confidential company papers or reports for examination and return to the companies, to be held by them for purposes of post-audit as necessary, the March 9, 1972 Commission order directed that they not be returned to the companies, but rather be sent to the FPC headquarters for safekeeping.

CONCLUSION

From all of the evidence collected in the investigation, and from the public record of the joint Senate Judiciary Subcommittees' hearing into the matter, it is apparent that Mr. Mangen acted independently in seeking to have the R-405 documents destroyed. Apparently the reason for his action was to end his responsibility under the Commission's September 12, 1972, order to protect the information in his hands from unauthorized disclosure. In the face of the Senate Subcommittee request for the R-405 documents and the repeated efforts of the Office of Economics to acquire information from these documents, apparently Mr. Mangen sought to relieve himself of the responsibility imposed upon him by the Commission order by destroying the documents. The attempted destruction violated the specific requirement in Ordering paragraph 2 of the Commission's September 12, 1972, R-405 order that the "individual company information received as a result of this continued investigation will be maintained in confidential status."

WEBSTER P. MAXSON,
Executive Director.

APPENDIX A

UNITED STATES OF AMERICA FEDERAL POWER COMMISSION

[18 C.F.R. Part 2]

RELIABILITY OF ELECTRIC AND GAS SERVICE

Docket No. R-405

POLICY STATEMENT—NOTICE OF INVESTIGATION AND PROPOSED RULEMAKING WITH RESPECT TO DEVELOPING EMERGENCY PLANS

(November 4, 1970)

It has long been a policy of this Commission to cooperate with Governmental agencies whose jurisdictions involve reliability of gas and electric service. The Commission reaffirms this policy of cooperation as it applies to the instant investigation and rulemaking proceeding. In addition, the Commission by and through its staff stands ready at all times to confer with jurisdictional and non-jurisdictional production, transmission, or distribution companies or associated groups facing an energy shortage, load-capacity imbalance or other emergency. Although this proceeding is initiated for the purpose of fulfilling the responsibilities of the Commission for reliability of gas and electric service under the Federal Power Act and Natural Gas Act, the resulting information, plans and procedures will serve to aid in carrying out the overall Federal program to assure an adequate energy supply.

The investigation and rulemaking proceeding set out below will be carried out in the spirit of cooperation with a view toward developing plans and procedures for invoking, if necessary, the emergency powers vested in this Commission. The Commission urges those companies or associated groups involved to confer with affected State regulatory authorities and to attempt to exhaust State remedies where practicable. Companies or associated groups seeking Commission assistance under the terms of this Notice should contact the Chief, Bureau of Power, or Chief, Bureau of Natural Gas. The Office of General Counsel is also available.

1. Information has been supplied to the Commission indicating that the availability and reliability of both natural gas and electric power service may be impaired by a shortage of fuel for electric power generation and by limitations on deliverability of gas in some areas.

2. Notice is hereby given, that pursuant to the Administrative Procedure Act, 5 U.S.C. 551, *et seq.* (1967) and Sections 4, 5, 7, 8, 14, 15, 16 and 17 of the Natural Gas Act [52 Stat. 822, 823, 824, 825, 828, 829, 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72, 15 U.S.C. 717c, 717d, 717f, 717g, 717m, 717n, 717o, 717p] and sections 201 through 209, 301, 303, 304, 305, 307, 308, 309 and 311 of the Federal Power Act [49 Stat. 847-856, 858, 859; 16 U.S.C. 824, 824a, 824b, 824c, 824d, 824e, 824f, 824g, 824h, 825, 825b, 825c, 825d, 825f, 825g, 825h, 825j] and upon an investigation to be conducted in this docket, the Commission proposes to amend Part 2, General Policy and Interpretations and appropriate parts of its Regulations under the Federal Power Act and its Regulations under the Natural Gas Act, in Chapter I, Title 18, Code of Federal Regulations, to issue rules establishing policies relating to the exercise of the Commission's emergency powers and to prescribe procedures for developing load relief and curtailment plans for natural gas pipeline companies and electric power systems with such plans to be implemented as may be required in certain areas of the United States during any fuel shortage and to meet future emergency requirements arising from short-term and extended gas and electric power shortages. We do not propose any specific terms and conditions in this notice. Rather, we will rely on the responses to this notice in making that determination. The investigation will concern matters of the natural gas and electric utility industries as are necessary to accomplish the stated purpose and shall not be limited to "natural gas" companies and "public utilities" within the meaning of the Natural Gas Act and Federal Power Act, respectively. This investigation shall be national in scope including Alaska and Hawaii.

3. Plans, policies and procedures.

A. Power: By letter of August 27, 1970, to all State Commissions or Governors of States without commissions in the 48 contiguous states, the Commission requested information concerning the following matters, among others: (a) reports of anticipated shortages of electric generating capability, or fuel for electric generation; (b) contingency plans for overcoming supply deficiencies of electricity on file with the state agency, which could encompass priority assignments of available electricity among customer classification, systematic load curtailment, or allocation of supplies among several companies; (c) the emergency powers of any state agency to meet any emergency which may develop in the winter 1970-1971. A majority of the State Commissions have already responded to this request for information. In view of the need for the requested information in reaching a prompt determination as to the propriety of rulemaking or other action on our part in meeting the problem of potential shortages for the current winter season, we are asking that those State Commissions that have not already done so forward the information to us by December 1, 1970, at the latest.

The August 27, 1970 letter also encouraged the State Commissions to work closely with the regional reliability councils and the utilities under their jurisdiction to formulate contingency plans for the coming winter, and requested them to inform the Commission as to the progress being made. We are asking that each State Commission advise us concerning the progress in their respective jurisdictions by December 1, 1970.

By confirming letter of August 25, 1970 to Mr. Floyd L. Goss, Chairman of the National Electric Reliability Council, the Council was requested to expand its program of developing procedures for interregional assistance between utilities to include a schedule of operating plans and procedures for emergency load relief and power transfer between areas of the country. It was recommended that the contingency plans and procedures be reviewed and approved by the state regulatory commissions and be made available to the public. We are asking the National Electric Reliability Council to provide us with a report of its progress in these matters by December 1, 1970.

The information requested in this paragraph (3A) and paragraph 7, *infra*, will enable the Commission to propose adoption of contingency plans and procedures for an adequate and reliable power supply.

B. Natural Gas: Staff's proposal for a new regulation covering a curtailment program for natural gas pipeline companies proposed to be added as a new section 157.22a to Part 157.22a to Part 157, Subchapter E of the Regulations under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations, is attached as Appendix A. All interested parties may respond to the proposal by December 1, 1970.¹

¹ State commissions and other affected State agencies are encouraged to participate.

4. As an aid in preparing responses, and as notice to those who may be examined in this investigation, we set forth specific areas of inquiry in the following paragraphs 5, 6, 7 and 8, the purpose of which is to determine the terms and conditions of a rule or rules necessary to avoid or to minimize the consequences of any emergencies that may develop. To the extent that any of the information requested has been previously submitted in the form of correspondence, response to orders or other reports (such as Form 1 and Form 12), duplicate data need not be submitted provided such data is accurately identified by specific page and line numbers or similar suitable references.

5. We call on all jurisdictional and non-jurisdictional production, transmission, or distribution companies individually or through associated groups to submit information to the Federal Power Commission directed toward the determination of the reliability of service, in all of its various ramifications, in both gas and electric power fields. The proceeding is to be phased.

A. Phase I will concentrate on the period from the date of this notice through March 31, 1971. The objective of this phase is to elicit information from those anticipating emergency situations during this phase period. Others need not respond to this phase. Interested parties should respond by December 1, 1970, with such relevant information involving, but not limited to, the categories set forth in the following paragraphs 6 and 7.

B. Phase II will concentrate on the period from the date of this notice through 1975. All electric generation and transmission companies, public, private, or government owned, and all gas transmission and distribution companies will be expected to respond by January 7, 1971, with projections for the period of Phase II with relevant information including but not limited to, the categories set forth in paragraph 6 or 7 *infra*. For purposes of this response, companies and other interested parties may utilize existing institutions, such as reliability councils or power pools or may utilize or form common interest groups.

6. Investigation of the adequacy and reliability of gas supply and deliverability to meet demand will include but not be limited to: (a) adequacy of supplies and delivery capacity; (b) adequacy of plans to meet emergency conditions. For this purpose, information on the following matters should be supplied: (1) present and projected transmission capacities of each pipeline system of all interstate (and intrastate) gas pipeline companies on a peak-day design, peak and off-peak load and average day basis; (2) pipeline companies current planned curtailment programs, including interruptible and firm load shedding priorities; (3) the current interconnectability of pipeline systems as well as feasibility and advisability of further interconnections; (4) whether present pipeline capacity can be meaningfully increased by additional compression facilities; (5) what reserve gas transmission capacity, if any, each pipeline has; (6) the availability of gas from both underground and LNG storage; (7) present maximum hourly and maximum daily capacity of each distribution system under peak load conditions; (8) operating pressures of distributors' systems; (9) increase in pressure permissible under present design; (10) capacity increase resulting from pressure increase; (11) peak and average day, peak and average hourly load requirement, normal and actual degree days for each system; (12) estimates of peak requirements of pipeline and distribution companies identified by classes; *i.e.*, domestic, firm commercial, firm industrial, interruptible; (13) sources of principal supply including own production, producer purchases, gas imports and pipeline supplies; (14) capacity of storage and peak shaving plant maximum hour and maximum day deliverability; (15) alternative and supplementary energy supply and inventory; (16) peak and average day volumes available from each source identified in items 13, 14 and 15; (17) estimate of availability, desirability and cost of alternate and supplementary energy supply sources; (18) distribution companies planned curtailment program, including interruptible and firm load shedding priorities; and (19) other matters affecting reliability of service.

7. With respect to the period from the date of this notice through 1975, our investigation of the availability and reliability of electric power and energy supply to meet demand will include, but not be limited to: (a) adequacy of capacity resources to serve anticipated loads; (b) availability of adequate fuel supply to serve anticipated energy requirements; (c) adequacy of existing emergency procedures to assure continuity of service during capacity or fuel shortages; and (d) additional measures which may be necessary to assure service continuity during such emergencies. For these purposes, we intend to utilize: (e) information contained in reports on file with the Commission such as Form No. 1 and Form No. 12; (f) data furnished to the Commission by the Regional Reliability Councils in response to Order No. 383-2 issued April 10, 1970; (g) data contained in reports to the Commission in response to the staff questionnaire entitled Fuel Situation

Report beginning in June 1970 and monthly thereafter; (h) data submitted in response to the letter dated August 25, 1970 to Mr. Floyd L. Goss, Chairman, National Electric Reliability Council concerning interregional assistance; (i) data submitted in response to the letter dated August 27, 1970 to all State Commissions or governors of states without commissions in the 48 contiguous states relating to fuel supply shortages, load relief and curtailment plans; and (j) data contained in reports of the Technical Advisory Committee of the National Electric Reliability Council.

In addition information to be supplied by and through regional reliability councils,² should include, but not be limited to: (1) assessment of adequacy of intraregional and interregional power transfer capabilities to maintain service continuity during power shortages or other emergencies which may possibly occur; (2) problems which adversely affect the ability of the individual utilities, power pools or other utility groups to construct needed generation and transmission facilities in sufficient time to service anticipated loads; (3) extent to which existing generation or transmission capacity is not currently utilized and/or the future use of which is threatened by legal or administrative action resulting from, but not limited to, environmental and aesthetic controversies. Regardless of whether reported to a regional council, by a pool, other utility group or an individual utility, the following information is to be supplied on an individual utility basis: (4) estimated amounts of fossil fuel to be used by years through 1975 by types including gas requirements for each heating season; (5) extent to which alternate fuels could be used; (6) cost of alternate fuels compared to cost of fuel in current use on the basis of (a) spot purchases, and (b) longer term contract purchases; (7) anticipated major changes in methods of fuel transport, if any; (8) legal restrictions on usage of various types of fuel; (9) type, use and adequacy of fuels kept in storage for use in the event of interruption of supply of normal fuel; (10) normal operating fuel reserves stated in terms of bulk (tons, barrels, etc.) and time (20 days, 30 days, etc.); (11) the total magnitude in kilowatts of interruptible load, subdivided into major categories of contractual limitations expressed in hours per day and hours per month; (12) other significant matters affecting reliability and adequacy of service.

8. The public interest requires that the volumes of proved natural gas reserves, if any, held by producers in any area and not contracted to pipelines or direct customers be reported in this investigation in order to facilitate exercise of the Commission's emergency powers, where appropriate, to permit interstate sales for resale under Section 7(c). Included in this inquiry is company use, warranty gas and gas committed to any purchaser for which there is excess of deliverability within either Phase I or Phase II of this Notice. Producers will be called upon by an investigating officer to make this information available (including any underlying data requested) on an individual company basis. This information may thereafter be composed for report by the investigating officer pursuant to paragraph 11. Information revealed to the Staff shall be treated as confidential information without public disclosure under the provisions of Section 8(b) of the Natural Gas Act [15 U.S.C. 717g] and the Freedom of Information Act [5 U.S.C. 552(b) (4)]. Compliance with the order shall not constitute nor be construed as a waiver of any claim of privilege by any producer.

9. The times and places for public hearings, if any, shall be specified by the Secretary. Hearings may be held for the purpose of allowing persons to state their views in lieu of filing written comments.

Any statements taken at a public hearing announced by the Secretary will be reduced to written form and will be considered together with the filed comments in this docket. Any party who wishes to make an oral statement in lieu of filing written comments should file a request with the Secretary at or before such time as the Secretary may require in his notice of public hearing. The request shall state the name, title, and mailing address of the person, the interest he has or represents in this proceeding, and a waiver of the right to file written comments pursuant to paragraph 10, *infra*. Denial of an oral presentation means only that the person should file written comments if he wishes to be heard. Persons whose request is granted will be notified by mail of the date and place of hearing and time allotted for their presentation.

² Data is requested from all segments of the industry including investor owned utilities, those operated by the State and Federal governments or political subdivisions, agencies or instrumentalities thereof, and cooperatively owned associations, all reporting to and coordinated by regional councils. It is anticipated that power pools and other utility groups that coordinate their planning and operations will report the additional coordinated data to their respective councils. Individual utilities that are not members of pools will, of course, report the additional information directly to their regional councils.

10. Any interested person may become a party to this proceeding by filing a response pursuant to this paragraph with the Secretary on or before the dates specified in paragraphs 3A and 3B *supra* or at such other times as the Secretary may require.

Responses in writing concerning these proposed rulemakings shall be filed with the Secretary of the Federal Power Commission, 441 G Street, N.W., Washington, D.C. 20426. Any submittal shall state the name, title, mailing address of the person or persons to whom communications concerning this matter should be addressed, the interest in this proceeding, and whether the person filing requests a conference at the Federal Power Commission. An original and fourteen copies of all submittals shall be filed with this Commission and with each affected State regulatory agency. The Commission will consider all such written submittals, and any statements taken pursuant to paragraph 9, *supra*, and any report filed by an officer pursuant to paragraph 11, *infra*, before issuing an order in this proceeding.

11. For the purposes of this investigation James R. Tourtellotte, John W. Williams and Paul L. Brady, Staff Attorneys are each hereby designated an officer of this Commission and empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant and material to the inquiry, and to perform all other duties in connection therewith as prescribed by law. These officers, or any of them, will preside at hearings provided for in paragraph 9, *supra*, unless otherwise provided by Commission order. However, nothing in paragraph 9, *supra*, shall limit the investigatory power delegated in this paragraph 11 or require that all depositions or other information obtained by subpoena duces tecum be publicly conducted or filed as a submittal in this docket. See 15 U.S.C. 717m, 717n. Any report to the Commission made by an officer prior to the Commission's decision in this rulemaking will be filed as a submittal pursuant to paragraph 10, *supra*.

12. The policy statement and notice of investigation and rulemaking are separable. Termination or stay of any one by order of this Commission or otherwise shall not affect any other proceeding incorporated herein.

13. This investigation and rulemaking will be conducted within the limits of the jurisdictional powers of the Commission.

14. The Secretary shall cause prompt publication of this notice to be made in the Federal Register.

15. Due to the urgency of the national interest in an adequate and reliable gas and electric supply, it is considered necessary to expedite this matter. Therefore, good cause exists for shortening the notice requirements set forth in Section 1.19 of our Rules in this instance.

By direction of the Commission, Commissioners Carver and Brooke dissenting filed separate statements appended hereto.

GORDON M. GRANT, *Secretary*.

APPENDIX A—FPC STAFF PROPOSAL

§ 157.22a *Priorities of Service in the Event of Inadequate Supply and/or Capacity to Meet the Requirements of All Customers*

(a) Each pipeline company subject to the Commission's jurisdiction shall observe the priorities of service to the extent appropriate in accordance with the following guidelines:

I. Highest service priority: consumption for essential services, national defense and domestic use, and gas storage therefor.

II. Firm service commitments in addition to those embraced under I above.

III. Interruptible service commitments.

(1) With respect to III above, the service curtailments shall be in accordance with priorities established in existing tariffs and/or service agreements for both direct and resale customers.

(2) With respect to II above, priorities established should be in accordance with the following order:

(i) Commercial users.

(ii) Industrial users.

(b) In effecting curtailments under these provisions, appropriate consideration shall be given to the notice period available prior to curtailment and to the customers' ability to use alternate fuels on both long term and short term bases;

(1) With respect to curtailments of service either to direct customers or to resale customers for use in electric generating plants, the extent of curtailment shall be determined so that the resulting curtailment of electric service would correspond to the gas service curtailment if the same priorities were observed.

(2) With respect to curtailments of partial requirements customers, consideration shall be given to the ability of other supplier(s) to replace all or part of the service to be curtailed. (It is contemplated hereby that curtailments to partial requirements customers may extend further than curtailments to entire requirements customers if the other supplier(s) can supply all or part of the load curtailed.)

(3) Non-concurrent exchange gas deliveries shall be interrupted on the same basis as gas sold.

[Docket No. R-405]

RELIABILITY OF ELECTRIC AND GAS SERVICE

(November 4, 1970)

CARVER, Commissioner, dissenting:

The promulgation of this order is symbolic of a frustration not infrequently experienced by this body in coming to terms with its jurisdictional limitations. I think it preferable to recognize the limitations and live with the frustrations rather than to embark upon an investigatory adventure in the name of a vague rulemaking objective, one that is *ultra vires* in law, unsound in concept and procedurally defective in terms of both our basic charter statutes and other legal requirements.

My reservations and objections have been developed and expressed in considerable detail during the considerations leading to today's action. Having failed to persuade my colleagues in these premises, no useful purpose would be served by their further elaboration here. In dissent, however, I must at least advert to the misgivings I have about the ultimate usefulness of what is being undertaken and its effect upon our relations with sister government agencies and the important industries we regulate.

JOHN A. CARVER, Jr., *Commissioner.*

[Docket No. R-405]

RELIABILITY OF ELECTRIC AND GAS SERVICE

(November 4, 1970)

BROOKE, Commissioner, dissenting:

While conceding the Commission's authority to conduct the proposed investigation, I have serious reservations whether the current emergency provisions of the Federal Power and Natural Gas Acts empower the Commission to implement the type of "load relief or curtailment" plans and procedures expected to evolve from the inquiry.

Rather, it appears that the majority contemplates assuming, through the device of rule-making, broad powers of electric power and natural gas allocation not apparent to me in "the emergency powers vested in this Commission."

Tremendous and growing demands have strained the capacity of both the electric power and natural gas industries to provide adequate and reliable service to all classes of customers, and, indeed, the Commission has mandated responsibilities for the reliability of electric and natural gas service.

However, in exercising these responsibilities in this instance, it is my opinion that the Commission's emergency powers do not extend to enforcing "load relief" of "load curtailment," that the rule-making is procedurally defective, and that the power to allocate energy should properly reside in a more centralized agency.

The inquiry would provide the basis "to issue rules establishing policies relating to the exercise of the Commission's emergency powers and to prescribe procedures for developing load relief and curtailment plans for natural gas pipeline companies and electric power systems with such plans to be implemented as may be required

in certain areas of the United States during any fuel shortage and to meet future emergency requirements arising from short-term and extended gas and electric power shortages."

The vagueness of such wording as "implemented as may be required" and "any fuel shortage" is so broad as to be virtually open to any interpretation and abuse of administration. There is no attempt to define even rudimentary criteria or standards. Nor is there any explanation of "the overall Federal program" the contingency plans allegedly will aid.

I find only two sections of the Federal Power Act and one section in the Natural Gas Act which speak of emergency actions. Neither Sections 202(c) nor 202(d) of the Power Act extend to curtailments. Likewise, Section 7(c) of the Natural Gas Act is deficient of the requisite authority.

The majority blithely ignores the stipulation of the Administrative Procedure Act that a rule-making notice "shall include either the terms or substance of the proposed rule or a description of the subjects and issues involved" by stating, "We do not propose any specific terms and conditions in this notice. Rather, we will rely on the responses to this notice in making that determination."

The sole concession to the APA is the attachment of "Appendix A—FPC Staff Proposal," relating to emergency procedures for natural gas curtailments. The Appendix enumerates "Priorities of Service" for several classes of customers, but Staff fails to describe the mechanism for implementing whatever program may evolve, what types of "emergency" situations would trigger load curtailment, or who would even determine the existence of emergency.

The electric power industry doesn't even have a Staff target as the departure for its comments, but was advised that information requested pursuant to Paragraphs 3A and 7 "will enable the Commission to propose adoption of contingency plans and procedures for an adequate and reliable power supply." Here again, the rule-making is completely devoid of conformity with the Administrative Procedure Act.

Of even greater significance to me is that fact that the rule-making may be misinterpreted as a step backward from the excellent voluntary co-operation established in recent years with all segments of the pluralistic electric power industry to improve and enhance service reliability on a regional basis. The nine electric reliability councils, plus the National Electric Reliability Council, have demonstrated remarkable progress toward developing strong intra-regional and inter-regional generation and transmission capacities to meet emergency situations.

Contingency planning to assure consumers reliable supplies of natural gas and electrical energy has become a matter of national urgency and priority. There are cross-currents involving many issues and many agencies at all levels of government. The availability of fuels, especially "clean" fuels of the low-sulfur variety, and environmental concerns, for instance, are two major influences on the adequacy of natural gas and power supplies. It is necessary that the co-operation of key agencies with considerable expertise and statutory responsibilities in these areas be sought in formulating a basic program, not as respondents to a rule-making but on a participant basis.

I feel that the Office of Emergency Preparedness would be the appropriate instrumentality at this time to coordinate development of a broad contingency procedure for allocating natural gas and electric power. Participants would, of course, be those agencies most concerned with fuels sufficiency, environmental quality and national economic policy, with provisions for input by the industries affected, state agencies and consumer groups.

It may well be that this Commission will, as a matter of national policy, ultimately be designated the task of formulating and implementing emergency load-curtailment programs for the natural gas and electric power industries within statutory guidelines. However, I must dissent to the instant proceedings because I believe the broad powers sought lack legal sanction in both the Federal Power and Natural Gas Acts. Proper amendments to both Acts would remedy this deficiency.

ALBERT B. BROOKE, Jr.,
Commissioner.

APPENDIX B

UNITED STATES OF AMERICA, FEDERAL POWER COMMISSION

(18 CFR Part 2)

RELIABILITY OF ELECTRIC AND GAS SERVICE

[Docket No. R-405]

ORDER UPDATING NATIONWIDE INVESTIGATION

Before Commissioners: John N. Nassikas, Chairman; Albert B. Brooke, Jr., Pinkney Walker, and Rush Moody, Jr.

(Issued September 12, 1972)

In our notice of investigation and proposed rulemaking with respect to developing emergency plans which was issued in this docket on November 4, 1970, we sought with regard to the natural gas industry to elicit information so as to enable us to assess the adequacy and reliability of the gas supply and deliverability to meet consumer demand for the oncoming winter season and four winters following. Evidence of anticipated curtailment of necessary service impelled the Commission to take affirmative steps in the public interest to obtain reliable factual information regarding the sources of available gas and the facilities existing and planned to deliver such gas to meet consumer demands and to determine the terms and conditions of a rule or rules necessary to avoid or minimize the consequences of any emergencies that may develop. Amendments of the Commission's regulations proposed in this docket are still under Commission consideration.

Pursuant to this action and in the implementation thereof Commission investigatory officers designated in the notice by letter dated November 20, 1970, directed 75 gas producers, representing all of the large gas producers whose individual jurisdictional sales of natural gas totaled in excess of 10 million Mcf annually, to respond thereto on forms designed to elicit the information necessary for Commission consideration. The responses were designed to cover separately the two time frames set forth in the notice.

The responses received pursuant to the said letter were particularly useful to the Commission in enabling it to assess problems which have arisen as a result of shortages in the gas supply and to take steps designed to meet them.

However, the industry has been unable to meet consumer demands. This has been amply evidenced by the filing pursuant to Order No. 431 by 27 of the natural gas pipeline companies subject to Commission jurisdiction of curtailment proposals. To enable the Commission to supplement its information, it is essential in the public interest for a better understanding of the problems prevailing in the industry that data almost identical in form to that previously supplied be submitted for evaluation and appropriate action. For the purpose of this continued investigation the current data should relate also to two time periods, one as of December 31, 1971, and the other as of June 30, 1972. Accordingly,

It is ordered that:

1. The investigation initiated by notice issued on November 4, 1970, in Docket No. R-405 be updated by the filing by the natural gas companies listed in Appendix A of responses to the questionnaires set forth in Appendix B, and that such responses be submitted in hand to Mr. Lawrence R. Mangen at Room 2071, 441 G Street, N.W., Washington, D.C. in a sealed envelope plainly marked "CONFIDENTIAL" on or before October 6, 1972. However, it should be noted that certain minor geographic changes have been made to the questionnaires separating the Federal Offshore Zones from State Offshore Zones. Any questions regarding said forms should be directed to Mr. Mangen, who may be reached by telephone at 202-386-6172.

2. For the purposes of this investigation no responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (9). It should be noted that unlike the previous filing all responses will be made at the Federal Power Commission Offices in Washington, D.C.

3. The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

[SEAL]

KENNETH F. PLUMB, *Secretary*.

APPENDIX A-1

Amerada Hess Corporation	Lone Star Producing Company
American Petrofina Co. of Texas	Louisiana Land and Exploration Company
Amoco Production Company	LVO Corporation
Anadarko Production Company	Mapco Production Company
Ashland Oil and Refining Company	Marathon Oil Company
Atlantic-Richfield Company	Mobil Oil Corporation
Austral Oil Co., Inc.	Monsanto Company
Aztec Oil and Gas Company	Natural Gas and Oil Corporation
Bass Enterprises Production Company	Northern Natural Gas Prod. Company
Beleco Petroleum Corporation	Ocean Drilling & Exploration Company
Beta Development Company	Petroleum Inc.
Cabot Corporation	Phillips Petroleum Company
California Co., Div. Chevron Oil Company	Pioneer Production Corp.
Champlin Petroleum Company	Placid Oil Company
Chevron Oil Co.	Pennzoil Producing Company
Cities Service Company	Pennzoil United, Inc.
Cities Service Oil Company	Pubco Petroleum Corporation
Clinton Oil Company	The Rodman Corporation
Coastal States Gas Producing Company	Shell Oil and Gas Company
E. Cockrell, Jr.	Signal Oil and Gas Company
Colorado Oil and Gas Corporation	Skelly Oil Company
Coltexo Corporation	Sohio Petroleum Company
Columbia Gas Development Corporation	Southern Natural Gas, Jt. Venture
Continental Oil Company	Southern Union Gathering Company
Edwin L. Cox	Southern Union Production Company
Diamond Shamrock Corporation	Suburban Propane Gas Corp.
Dorchester Gas Production Company	Sun Oil Company
Exchange Oil and Gas Company	Tenneco Oil Company
Forest Oil Corporation	Tennessee Gas Supply Co.
General American Oil Co. of Texas	Terra Resources Inc.
Getty Oil Company	Texaco Inc.
Gulf Oil Corporation	Texas Gas Exploration Corporation
Hassie Hunt Trust	Texas Oil and Gas Corporation
Helmerich & Payne, Inc.	Transocean Oil; Inc.
J. M. Huber Corporation	The Superior Oil Company
Humble Oil and Refining Company	Union Carbide Petroleum Corporation
Hunt Oil Company	Union Oil Company of California
The Jupiter Corporation	Union Pacific Railroad Co.
Kerr-McGee Corporation	Union Texas Petroleum
	Warren Petroleum Corporation

APPENDIX B-1

Q. A. Will you please state your name, the name of your company and your position with the company?

Q. B. Are you authorized by your company to furnish the information requested in the following interrogatories?

Q. C. If not, will you please state the name or names of the official or officials of your company who have such information?

Q. D. Do you understand that the Investigating Officer will combine the information obtained from you with information obtained from others and file a composite report in the public files in Docket No. R-405?

CERTIFICATION

I certify that the information hereon is correct to the best of my knowledge.

Q. E. Will you please state the net working interest volumes, including associated royalty interest volumes, of proved recoverable reserves of non-associated natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1971, for the areas hereinafter designated? (For the purpose of questions E-J, the term "proved reserves" is used as defined by the Committee on Natural Gas Reserves of the American Gas Association and such definition is set forth on Appendix B-8 of this letter. The volumes held "available for sale" in questions E-J are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, not company use-warranty gas or not company use-fuel and feedstock.)

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
 - (a) Federal
 - (b) State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
 - (a) Federal
 - (b) State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 5?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas?²
 - (a) Federal
 - (b) State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between East and Western Oklahoma by the central Oklahoma Indian Meridian separate Ranges E and W. Western Oklahoma is further divided between Hugoton Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

APPENDIX B-3

Q. F. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that our company had available for sale as of December 31, 1971, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
 - (a) Federal
 - (b) State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
 - (a) Federal
 - (b) State

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

14. Michigan?
 15. Mississippi?
 16. Montana?
 17. Nebraska?
 18. Northwest New Mexico?
 19. Southeast New Mexico?
 20. New York?
 21. North Dakota?
 22. Ohio?
 23. Oklahoma Panhandle area?³
 24. Oklahoma Anadarko area?
 25. Eastern Oklahoma?
 26. Pennsylvania?
 27. Texas Railroad District No. 9?
 28. Texas Railroad District No. 10?
 29. Texas Railroad District Nos. 8, 8A,
 7B and 7C?
 30. Texas Railroad District Nos. 5 and
 6?
 31. Texas Railroad District Nos. 1, 2,
 3 and 4?
 32. Offshore Texas?²
 (a) Federal
 (b) State
 33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

APPENDIX B-4

Q. G. Will you please state the *total* net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated and of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1971, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹ *
3. Southern Arkansas?
4. California?
5. Offshore California?²
 - (a) Federal
 - (b) State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
 - (a) Federal
 - (b) State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A,
 7B and 7C?
30. Texas Railroad District Nos. 5 and
 6?
31. Texas Railroad District Nos. 1, 2,
 3 and 4?
32. Offshore Texas?²
 - (a) Federal
 - (b) State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between East and Western Oklahoma by the central Oklahoma Indian Meridian separate Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

APPENDIX B-5

Q. H. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of June 30, 1972, for the areas herinafter designated?

That are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California²
 - (a) Federal
 - (b) State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana²
 - (a) Federal
 - (b) State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas?²
 - (a) Federal
 - (b) State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee, and Washington.

APPENDIX B-6

Q. I. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degree Fahrenheit, that your company had available for sale as of June 30, 1972, for the areas herinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana²
 - (a) Federal
 - (b) State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton Anadarko by the Panhandle Meridian separating Ranges E and W.

29. Texas Railroad District Nos. 8, 8A,
 7B and 7C?
30. Texas Railroad District Nos. 5 and
 6?
31. Texas Railroad District Nos. 1, 2,
 3 and 4?
32. Offshore Texas?²
 (a) Federal
 (b) State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?⁴

38. What is the total of the volumes furnished in response to questions 1-37?

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Q. J. Will you please state the *total* net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated and of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of June 30, 1972, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas?¹
3. Southern Arkansas?
4. California?
5. Offshore California?²
 - (a) Federal
 - (b) State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana?²
 - (a) Federal
 - (b) State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area?³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 5?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A,
 7B and 7C?
30. Texas Railroad District Nos. 5 and
 6?
31. Texas Railroad District Nos. 1, 2,
 3 and 4?
32. Offshore Texas?²
 - (a) Federal
 - (b) State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas?

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

APPENDIX B-8

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE¹

(Million cubic feet at 14.73 p.s.i.a., 60 F)

State:	Volumes as of Dec. 31, 1971			Volumes as of June 30, 1972		
	Nonasso-	Associ-	Total	Nonasso-	Associ-	Total
	ciated	ated- dissolved		ciated	ated- dissolved	
Alaska						
Arkansas: ²						
Northern						
Southern						
California						
Offshore California ³						
(a) Federal						
(b) State						
Colorado						
Illinois						
Indiana						
Kansas						
Kentucky						
Louisiana:						
North						
South						
Offshore ³						
(a) Federal						
(b) State						
Michigan						
Mississippi						
Montana						
Nebraska						
New Mexico:						
Northwest						
Southwest						
New York						
North Dakota						
Ohio						
Oklahoma: ⁴						
Panhandle						
Anadarko						
Eastern						
Texas:						
RR Dist. No. 9						
RR Dist. No. 10						
RR Dist. Nos. 8, 8A, 7B, 7C						
RR Dist. Nos. 5, 6						
RR Dist. Nos. 1, 2, 3, 4						
Offshore ³						
(a) Federal						
(b) State						
Utah						
Virginia						
West Virginia						
Wyoming						
Miscellaneous ⁵						
Total						

¹ Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, proved reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held available for sale are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² Arkansas is divided between north and south by base line separating townships north and south.³ Offshore areas shall be measured from the coastline seaward.⁴ Oklahoma is divided between eastern and western Oklahoma by the central Oklahoma Indian Meridian separating ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating ranges E and W.⁵ Includes Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee, and Washington

[Federal Power Commission news release, Feb. 22, 1973]

APPENDIX C

FPC STAFF RELEASES REPORT ON UNCOMMITTED NATURAL GAS RESERVES

Total uncommitted natural gas reserves available for sale in the lower 48 states as reported by 79 large gas producers declined from 4.6 trillion cubic feet at the end of 1969 to 3.4 trillion cubic feet by mid-1972, the Federal Power Commission staff reported today.

The staff report, signed by Thomas J. Joyce, Chief of the FPC's Bureau of Natural Gas, is based on information provided to the Commission by gas producers on reserves available for sale as of December 31, 1971 and June 30, 1972. The data was collected to update information on uncommitted natural gas reserves as part of the FPC's continuing investigation of the adequacy and reliability of gas supply and deliverability.

Total reserves available in the lower 48 states (Alaska and Hawaii not included) decreased from 4.6 trillion cubic feet at the end of 1969 to 3.8 trillion cubic feet as of December 31, 1971. This latter volume is equal to 1.5 percent of the proved reserves as reported for that date by the American Gas Association.

Including Alaska, uncommitted reserves available for sale on June 30, 1972, were 31.2 trillion cubic feet, compared with 6.0 trillion at the end of 1969. The substantial rise in these figures results from the addition of the Alaskan North Slope reserves, which were not included in the 1969 figures.

However, even including the North Slope reserves, the total U.S. declined from 31.6 trillion as of December 31, 1971, to 31.2 trillion of June 30, 1972.

The reserve figures, summarized in the attached tables, show a decline for non-associated gas (not in contact with, or dissolved in, crude oil in reservoirs) for both the lower 48 states and for the total U.S., including Alaska, between the end of 1969 and mid-1972.

The associated-dissolved gas reserves (those in contact with, or dissolved in, crude oil in reservoirs) available for sale remained fairly constant during the period December 31, 1969, through June 30, 1972, except for the addition of the Alaskan North Slope reserves in the total.

The report shows slight upward trends for the Federal offshore in the South Louisiana area, the Hugoton-Anadarko area, the Rocky Mountain area, the Appalachian area, California, and miscellaneous other states.

Today's report results from an FPC order issued last September 12 directing 79 large natural gas producers to provide information on the gas they had available for sale as of December 31, 1971, and June 30, 1972. The Commission requested the information in order to update data on uncommitted natural gas reserves in its investigation initiated November 4, 1970, to enable it to assess the adequacy and reliability of gas supply and deliverability to meet consumer demands.

The staff report accompanies this release.

FEBRUARY 9, 1973.

Memorandum to: The Commission.

From: Chief, Bureau of Natural Gas.

Subject: Staff Report on Nationwide Investigation: Large Producer Gas Reserves Available For Sale (Docket No. R-405).

The Commission on September 12, 1972, re-issued Docket No. R-405 in order to elicit additional information to further assess the adequacy and reliability of gas supply to meet consumer demand. Responses were due by October 6, 1972. Many of the respondents filed late and 15 did not file at all. A letter was sent by the Secretary on November 15, 1972, to the non-filing companies requesting compliance. All respondents have now replied.

The reserve figures reported by the "Large Producers" are set forth on the attached tables. Table I contains Total Gas Reserves, Table II, Nonassociated Gas Reserves, and Table III, Associated-Dissolved Gas Reserves that were available for sale on the dates specified. Footnotes for the tables follow the 3 attached tables. An overall summary is shown on the following table:

AVAILABLE FOR SALE

[Trillions of Cubic Feet]

	Total	Nonassocia-tion	Associa-tion-Diss.
LOWER "48"			
Dec. 31, 1969	4.6	4.0	0.6
Oct. 1, 1970	4.4	3.8	.6
Dec. 31, 1971	3.8	3.1	.7
June 30, 1972	3.4	2.8	.6
TOTAL UNITED STATES ¹			
Dec. 31, 1969	5.9	5.2	.7
Oct. 1, 1970	6.0	5.3	.7
Dec. 31, 1971	² 31.7	4.9	² 26.8
June 30, 1972	31.2	4.5	26.7

¹ Includes Alaska.² Includes North Slope Alaska.

The inclusion of Alaskan North Slope reserves in the Total and Associated-Dissolved gas reserves in Tables I and III, masks any U.S. total trends, over the time span of the two investigations, because of the extremely large size of these reserves which were not reported in the first R-405 reserve report. Therefore, in order to see any significant U.S. trends the lower "48" figures should be used. There are slight upward trends as shown in Table I, Total Gas, for Federal Offshore in South Louisiana, the Hugoton-Anadarko Area, the Rocky Mountain Area, Appalachian Area, California, and Miscellaneous States. The upward trend in these areas, however, cannot overcome the overall downward trend in total gas on Table I for the lower "48." Even Alaska, with or without the North Slope reserves, shows a downward trend.

Table II, Nonassociated Gas, shows the same trends as Table I.

Table III, Associated-Dissolved Gas shows slight increasing trends in Federal Offshore Louisiana, Rocky Mountain Area, and Miscellaneous.

THOMAS J. JOYCE.

Attachments.

APPENDIX A-1

RESPONDENTS

Amerada Hess Corporation	Louisiana Land and Exploration Company
American Petrofina Co. of Texas	LVO Corporation
Amoco Production Company	Mapco Production Company
Anadarko Production Company	Marathon Oil Company
Ashland Oil and Refining Company	Mobil Oil Corporation
Atlantic-Richfield Company	Monsanto Company
Austral Oil Co., Inc.	Natural Gas and Oil Corporation
Aztec Oil and Gas Company	Northern Natural Gas Prod. Company
Bass Enterprises Production Company	Ocean Drilling & Exploration Company
Beleco Petroleum Corporation	Petroleum Inc.
Beta Development Company	Phillips Petroleum Company
Cabot Corporation	Pioneer Production Corp.
California Co., Div. Chevron Oil Company	Placid Oil Company
Champlin Petroleum Company	Pennzoil Producing Company
Chevron Oil Co.	Pennzoil United, Inc.
Cities Service Company	Pubco Petroleum Corporation
Cities Service Oil Company	The Rodman Corporation
Clinton Oil Company	Shell Oil and Gas Company
Coastal States Gas Producing Company	Signal Oil and Gas Company
E. Cockrell, Jr.	Skelly Oil Company
Colorado Oil and Gas Corporation	Sohio Petroleum Company
Coltexo Corporation	Southern Natural Gas, Jt. Venture
Columbia Gas Development Corporation	Southern Union Gathering Company
Continental Oil Company	Southern Union Production Company
Edwin L. Cox	Suburban Propane Gas Corp.
Diamond Shamrock Corporation	Sun Oil Company
Dorchester Gas Production Company	Tenneco Oil Company
Exchange Oil and Gas Company	Tennessee Gas Supply Co.
Forest Oil Corporation	Terra Resources Inc.
General American Oil Co. of Texas	Texaco Inc.
Getty Oil Company	Texas Gas Exploration Corporation
Gulf Oil Corporation	Texas Oil and Gas Corporation
Hassie Hunt Trust	Transocean Oil, Inc.
Helmerich & Payne, Inc.	The Superior Oil Company
J. M. Huber Corporation	Union Carbide Petroleum Corporation (Ashland)
Humble Oil and Refining Company	Union Oil Company of California
Hunt Oil Company	Union Pacific Railroad Co.
The Jupiter Corporation	Union Texas Petroleum
Kerr-McGee Corporation	Warren Petroleum Corporation
Lone Star Producing Company	

TABLE I.—TOTAL LARGE PRODUCERS PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE

[Million cubic feet at 14.73 p.s.i.a. and 60° F]

Area	Total proven reserves as of Dec. 31, 1969, reported by American Gas Association		Large producers reserves available for sale ¹		Total proven reserves as of Dec. 31, 1971, reported by American Gas Association		Large producers reserves available for sale ¹	
	As of Dec. 31, 1969	As of Oct. 1, 1970	As of Dec. 31, 1971	As of June 30, 1972	As of Dec. 31, 1971	As of June 30, 1972	As of Dec. 31, 1971	As of June 30, 1972
South Louisiana	80,769,437	2,014,110	2,173,303	74,968,645	1,770,603	1,873,267		
Onshore	56,666,983	2,1,004,206	2,1,117,499	47,128,723	572,157	398,830		
Offshore	324,102,454	2,1,009,904	2,1,055,804	327,839,922	1,198,446	1,474,437		
Federal State					1,159,553	1,442,685	38,893	31,752
Texas gulf coast ⁴	67,540,216	1,056,974	735,326	60,844,298	631,840	544,441		
Onshore		597,210	494,405		311,266	344,917		
Offshore		459,764	240,921		320,574	199,524		
Federal State					305,574	152,624	15,000	46,900
Permian Basin ⁵	29,977,869	591,927	355,087	26,622,622	445,046	318,976		
Hugoton-Anadarko ⁷	36,894,586	355,542	394,963	33,299,985	42,624	54,313		
Other Southwest ⁸	23,236,084	251,828	430,320	20,657,896	551,694	171,051		
Rocky Mountain ⁹	17,514,030	198,569	205,620	17,087,479	241,031	264,807		
Appalachian ¹⁰	6,048,395	7,463	10,846	6,588,177	10,752	11,608		
Unclassified areas:								
Michigan	750,964	4,363	1,115	1,016,482	3,484	0		
California	6,870,946	52,222	10,252	5,729,499	58,911	79,568		
All others	304,165	45,482	60,002	625,194	61,853	82,470		
Total Lower "48" ¹¹	269,906,692	4,578,480	4,374,834	247,440,277	3,817,838	3,400,511		
Alaska ¹²	5,202,143	13,1,406,804	13,1,699,297	31,365,341	12,27,822,861	12,27,817,181		
Total United States	275,108,835	5,985,284	6,074,131	278,805,618	31,640,699	31,217,692		

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 thousand cubic feet.

Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically producible on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserve of the American Gas Association, proved reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale", are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e., zone 1 is included in onshore). The respondents in docket No. R-405 included only large producers. The respondents in docket No. AR69-1 included large and certain small producers as well as pipeline companies.

³ AGA figures include zone 1 offshore in onshore figures.

⁴ Consists of Texas RR. district Nos. 1, 2, 3, and 4.

⁵ Includes offshore reserves.

⁶ Consists of Texas RR. district Nos. 7-B, 7-C, 8, and 8A and southeast New Mexico.

⁷ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR district No. 10.

⁸ Other Southwest includes Arkansas, eastern Oklahoma, Texas RR. district Nos. 5, 6, and 9, north Louisiana and Mississippi.

⁹ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and northwest New Mexico.

¹⁰ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

¹¹ Does not include Alaska.

¹² Includes Alaskan North Slope reserves of all producers.

¹³ For Total Reserves: The 1,406,804 million cubic feet of reserves in 1969 and the 1,699,297 million cubic feet of reserves in 1970 do not include Alaska North Slope reserves. Alaska North Slope total R-405 reported gas reserves are 26,000,000 million cubic feet of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1975.

For nonassociated reserves: The 1,275,754 million cubic feet of reserves in 1969 and the 1,572,254 million cubic feet of reserves in 1970 do not include Alaska North Slope reserves.

For associated dissolved reserves: The 131,050 million cubic feet of reserves in 1969 and the 127,043 million cubic feet of reserves in 1970 do not include Alaska North Slope reserves.

TABLE II.—TOTAL LARGE PRODUCER PROVED NONASSOCIATED NATURAL GAS RESERVES AVAILABLE FOR SALE

[Million cubic feet at 14.73 p.s.i.a. and 60° F]

Area	Total proven reserves as of Dec. 31, 1969, reported by American Gas Association	Large producers reserves available for sale ¹		Total proven reserves as of Dec. 31, 1971, reported by American Gas Association	Large producers reserves available for sale ¹	
		As of Dec. 31, 1969	As of Oct. 1, 1970		As of Dec. 31, 1971	As of June 30, 1972
South Louisiana.....	66,602,555	1,662,668	1,812,726	26,543,880	1,490,827	1,660,762
Onshore.....	46,671,165	2,731,038	2,936,775	39,066,971	342,441	277,396
Offshore.....	3,19,931,390	2,881,630	2,875,951	3,23,476,909	1,148,385	1,383,366
Federal State.....					1,111,400	1,353,273
Texas gulf coast ⁴	50,791,040	944,294	648,047	346,081,948	590,129	502,927
Onshore.....		484,530	403,926		269,589	303,403
Offshore.....		459,764	239,121		320,540	199,524
Federal State.....					304,540	152,624
Permian Basin ⁵	16,843,155	583,594	342,811	15,299,604	339,690	215,728
Hugoton-Anadarko ⁶	34,290,945	350,271	384,741	30,979,944	33,807	50,623
Other Southwest ⁸	16,253,844	142,949	323,046	14,544,882	433,135	64,384
Rocky Mountain ⁹	15,215,440	188,023	193,745	14,788,864	116,640	132,701
Appalachian ¹⁰	3,996,851	3,592	5,864	4,012,767	10,550	11,425
Unclassified areas:						
Michigan.....	73,268	3,725	200	179,479	3,484	0
California.....	2,857,084	48,626	7,150	2,342,332	36,370	57,300
All others.....	66,737	45,240	59,316	182,396	47,546	62,521
Total lower "48" ¹¹	206,990,919	3,972,972	3,777,646	190,986,196	3,102,178	2,758,371
Alaska ¹²	4,882,363	1,275,754	1,572,254	4,957,421	1,780,992	1,780,992
Total United States.....	211,873,282	5,248,726	5,349,900	195,953,617	4,833,170	4,539,363

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 thousand cubic feet.

Proved reserves are using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

² "The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, proved reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale" are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

³ Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e. zone 1 is included in onshore). The respondents in docket No. R-405 included only large producers. The respondents in docket No. AR69-1 included large and certain small producers as well as pipeline companies.

⁴ AGA figures include zone 1 offshore in onshore figures.

⁵ Consists of Texas RR district Nos. 1, 2, 3, and 4.

⁶ Includes offshore reserves.

⁷ Consists of Texas RR district Nos. 7-B, 7-C, 8, and 8A and southeast New Mexico.

⁸ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR district No. 10.

⁹ Other Southwest includes Arkansas, eastern Oklahoma, Texas RR district Nos. 5, 6, and 9, north Louisiana and Mississippi.

¹⁰ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and northwest New Mexico.

¹¹ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

¹² Does not include Alaska.

¹³ Includes Alaskan North Slope reserves of all producers.

¹⁴ For Total Reserves: The 1,406,804 million cubic feet of reserves in 1969 and the 1,699,297 million cubic feet of reserves in 1970 do not include Alaska North Slope reserves. Alaska North Slope total R-405 reported gas reserves are 26,000,000 million cubic feet of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1976.

For nonassociated reserves: The 1,275,754 million cubic feet of reserves in 1969 and the 1,572,254 million cubic feet of reserves in 1970 do not include Alaska North Slope reserves.

For associated dissolved reserves: The 131,050 million cubic feet of reserves in 1969 and the 127,043 million cubic feet of reserves in 1970 do not include Alaska North Slope reserves.

TABLE III.—TOTAL LARGE PRODUCER PROVED ASSOCIATED DISSOLVED NATURAL GAS RESERVES AVAILABLE FOR SALE

[Million cubic feet at 14.73 p.s.i.a. and 60° F]

Area	Total proven reserves as of Dec. 31, 1969, reported by American Gas Association	Large producers reserves available for sale ¹		Total proven reserves as of Dec. 31, 1971, reported by American Gas Association	Large producers reserves available for sale ¹	
		As of Dec. 31, 1969	As of Oct. 1, 1970		As of Dec. 31, 1971	As of June 30, 1972
South Louisiana	14,166,882	351,442	360,577	12,416,106	279,776	212,505
Onshore	9,995,818	223,168	180,724	8,053,093	265,353	121,434
Offshore	3,417,064	2128,274	2179,853	3,436,013	50,060	91,071
Federal					48,153	89,412
State					1,907	1,659
Texas gulf coast ⁴	5 16,734,649	112,680	87,279	5 14,750,807		
Onshore		112,680	85,479		41,677	41,514
Offshore		0	1,800		34	0
Federal					34	0
State					0	0
Permian Basin ⁵	13,089,093	8,333	10,276	11,236,103	105,356	103,248
Hugoton-Anadarko ⁶	2,462,994	5,271	10,222	2,127,329	8,817	3,690
Other Southwest ⁷	6,624,707	108,879	107,274	5,719,148	118,559	106,677
Rocky Mountain ⁸	2,056,895	10,546	11,875	2,023,868	124,391	132,106
Appalachian ¹⁰	258,602	3,871	4,982	260,537	202	183
Unclassified areas:						
Michigan	82,186	638	915	184,541	0	0
California	3,826,608	3,606	3,102	3,175,368	22,541	22,268
All others	11,248	242	686	196,046	14,307	19,105
Total lower "48" ¹¹	59,313,864	605,508	597,188	52,139,853	715,660	584,664
Alaska ¹²	310,780	13 131,050	13 127,043	26,397,920	12 26,041,869	12 26,036,189
Total United States	59,633,644	736,558	724,231	78,537,773	26,757,529	26,678,329

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 thousand cubic feet.

Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserve of the American Gas Association, proved reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators of plant facilities."

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale", are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e., zone 1 is included in onshore). The respondents in docket No. R-405 included only large producers. The respondents in docket No. AR69-1 included large and certain small producers as well as pipeline companies.

³ AGS figures include zone 1 offshore in onshore figures.

⁴ Consists of Texas RR. district Nos. 1, 2, 3, and 4.

⁵ Includes offshore reserves.

⁶ Consists of Texas RR. district Nos. 7-B, 7-C, 8, and 8A and southeast New Mexico.

⁷ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR district No. 10.

⁸ Other Southwest includes Arkansas, eastern Oklahoma, Texas RR. district Nos. 5, 6, and 9, north Louisiana and Mississippi.

⁹ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and northwest New Mexico.

¹⁰ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

¹¹ Does not include Alaska.

¹² Includes Alaskan North Slope reserves of all producers.

¹³ For Total Reserves: The 1,406,804 million cubic feet of reserves in 1969 and the 1,699,297 million cubic feet of reserves in 1970 do not include Alaska North Slope reserves. Alaska North Slope total R-405 reported gas reserves are 26,000,000 million cubic feet of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1976.

For nonassociated reserves: The 1,275,754 million cubic feet of reserves in 1969 and the 1,572,254 million cubic feet of reserves in 1970 do not include Alaska North Slope reserves.

For associated dissolved reserves: The 131,050 million cubic feet of reserves in 1969 and the 127,043 million cubic feet of reserves in 1970 do not include Alaska North Slope reserves.

UNITED STATES OF AMERI APPENDIX D
Congress of the United States

To John N. Nassikas, Chairman

Federal Power Commission

, Greeting:

Pursuant to lawful authority, YOU ARE HEREBY COMMANDED to appear before the Sub- Committee on Antitrust and Monopoly Committee on the Judiciary of the Senate of the United States, on June 26, 1973., at 10:00 o'clock a.m., at their committee room 1202 Dirksen Office Building, Washington, D. C., then and there to testify what you may know relative to the subject-matters under consideration by said committee.

In connection with the Subcommittee's investigation of the nature and extent of competition and concentration of reserves in the energy industry, and to bring with you the material described in the attached appendix.

Whereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To the U.S. Marshal or any other authorized person to serve and return.

Given under my hand, by order of the committee, this 21st day of June, in the year of our Lord one thousand nine hundred and seventy-three.



Sub Chairman, Committee on Antitrust and Monopoly
Committee on the Judiciary of the Senate of the United States

....., 19.....

I made service of the within subpcna

by

the within-named

....., at

at 8'clock m.; on

the day

of , 19.....

APPENDIX A

1. All memoranda, documents, and writings of any nature whatsoever in the possession, custody, or control of the Federal Power Commission or any member or employee thereof referring or relating to FPC Order updating nationwide investigation in Docket No. R-405 dated September 12, 1972.

2. All workpapers and composites resulting from material received in connection with reissued Docket No. R-405 dated September 12, 1972.

APPENDIX E

UNITED STATES OF AMERICA—FEDERAL POWER COMMISSION

[Docket No. R-405]

RELIABILITY OF ELECTRIC AND GAS SERVICE

ORDER OF MODIFICATION TO AUTHORIZE COMPLIANCE WITH CONGRESSIONAL
SUBPOENA DUCES TECUM

(Issued June 22, 1973)

Before Commissioners: John N. Nassikas, Chairman; Albert B. Brooke, Jr., and Rush Moody, Jr.

This Commission is called upon today to determine whether its Chairman should supply confidential gas reserve data to the Senate Judiciary Committee's Subcommittee on Antitrust and Monopoly on June 26, 1973, in compliance with a *subpoena duces tecum*, notwithstanding that such action is inconsistent with the terms and spirit of earlier orders of this Commission eliciting such data. For the reasons discussed hereafter, we find that compliance with the subpoena is our only alternative in the absence of judicial intercession.

In 1970, in response to the increasingly pessimistic reports of the nation's natural gas reserves, this Commission launched an investigation into the present and future adequacy of the interstate gas supply. In furtherance of said investigation, on November 4, 1970, we issued in Docket No. R-405 a document entitled "Policy Statement, Notice of Investigation, and Proposed Rulemaking With Respect to Developing Emergency Plans." This order required all large scale producers of natural gas to report any holdings of proven natural gas reserves in any area which had not been contracted to pipeline companies for resale or to direct customers for immediate consumption. In seeking to elicit this data, the Commission assured the producers that, although the information would be received on a company-by-company basis, only composite figures for the industry would be released to the public and that the material received would be treated in a confidential manner. This assurance was specifically stated in the Commission's order of November 4, 1970:

"Information revealed to the Staff shall be treated as confidential information without public disclosure under the provisions of Section 8(b) of the Natural Gas Act [15 U.S.C. 717g] and the Freedom of Information Act [5 U.S.C. 552(b)(4)]. Compliance with the order shall not constitute nor be construed as a waiver of any claim of privilege by any producer."

Further information was requested on September 12, 1972, when the Commission issued its "Order Updating Nationwide Investigation." The Commission again assured the producers that the confidentiality of the data submitted would be respected:

"For the purposes of this investigation no responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (9)."

* * * * *

NOTE: It is interesting to compare the Subcommittee's demand with the expressed intent of Congress in enacting the Freedom of Information Act. In reference to the exemption under Section (b)(4), House Report No. 125, 90th Cong., 1st Sess., at page 10 stated:

"It would also include information which is given to an agency in confidence, since a citizen must be able to confide in his government. Moreover, where the government has obligated itself in good faith not to disclose documents or information which it receives, it would be able to honor such obligations."

The House Report also referred to Section (b)(9) and noted the contentions of witnesses that disclosure of exploratory findings of oil companies would give speculators an unfair advantage over companies which spent millions of dollars for exploration. The Senate Report, No. 248, 90th Cong., 1st Sess., page 2, said:

"The purpose of clause (9) is to protect from disclosure certain information which is highly valuable to several important industries and which should be kept confidential when it is contained in Government records."

The issues raised by the Subcommittee's subpoena are peculiarly suited to resolution by the judiciary. There an appropriate balancing of public and private interest can be made without prejudicing the right of any concerned party, with due regard for the constitutional doctrine of separation of powers, and with proper consideration of due process. A court of competent jurisdiction has the power to issue such orders as are necessary to preserve the rights of the parties pending adjudication of the matter before it.

RUSH MOODY, JR., *Commissioner.*

ALBERT B. BROOKE, JR., *Commissioner.*

Senator KENNEDY. We will go to Mr. George Vivian next.

Mr. Vivian, do you swear that the evidence that you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. VIVIAN. I do.

STATEMENT OF GEORGE BRENT VIVIAN, SECURITY OFFICER, FEDERAL POWER COMMISSION; ACCCOMPANIED BY L. M. PELLERZI, GENERAL COUNSEL, AND DOLPH DAVID SAND, COUNSEL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Senator KENNEDY. Would you state your name and position?

Mr. VIVIAN. My name—

Senator KENNEDY. And identify the gentleman with you.

Mr. VIVIAN. My name is George Brent Vivian, and I am with the Office of Administrative Operations of the Federal Power Commission. This is Mr. Dolph David Sand.

Mr. PELLERZI. Mr. Chairman, I am Lou Pellerzi, and I am the general counsel of the American Federation of Government Employees.

Senator KENNEDY. All right, you gentlemen be seated.

Mr. PELLERZI. May I just make a short statement, Mr. Chairman?

Senator KENNEDY. Yes.

Mr. PELLERZI. May I explain why we are here as counsel to Mr. Vivian?

We represent, Mr. Chairman, and have been retained to represent, Mr. Vivian, Mr. Zabel, Miss Joyce Powell, Larry Albares and Larry Mangen. They are all career employees, all except Miss Joyce Powell, are members of AFGE Union. Miss Powell is a member of a union where our union holds exclusive recognition under Executive Order 11491. Having made the decision to provide counsel to Mr. Vivian and other members of the union we are required also by that order to provide equal representation to our nonunion members.

We feel here Mr. Chairman, having interviewed all of these witnesses on very short notice yesterday, that there is no conflict of interest between the five witnesses and we see no problems with representing them. It was also my judgment based on 25 years as a career Government lawyer in administration that these people being witnesses, being mid-level or working-level career employees, carrying out what they understood to be the policy of their agencies, should have been represented or provided counsel by the Federal Power Commission. I was advised when I made that request of Mr. Webb Maxson that the Federal Power Commission had taken the position that there was a conflict of interest between the interests of that Commission and the interests of these employees and that they should not therefore provide

them with counsel. It was in that condition, Mr. Chairman, that the union agreed to provide what assistance and advice to these career employees that they thought was needed.

Let me say, Mr. Chairman, their concern is not with coming before you and telling you the truth about their fulfilling duties and responsibilities. Their concern that brings us here as a representative I think stems more from the fact that they have been cut adrift by their agency for doing what they understood to be their duties and responsibilities. It is necessary for me, Mr. Chairman, to leave because of other commitments but Mr. Dolph Sand will stay and represent the interests of these witnesses. Your staff counsels Mr. Bangert and Mr. Chumbris have been most kind and helpful in explaining the procedure to us and we will try not to interfere in the hearing but just to advise our clients.

Senator KENNEDY. Well, we want to welcome you here to the committee. As chairman of the Administrative Practice Subcommittee, and I am sure Senator Hart feels the same way, I have the greatest interest in protecting the rights of the employees. Senator Hart and I are cosponsors of legislation to provide additional rights to the employees. So, we are extremely sensitive to this and we want to make sure it is clear to those that testify, that we have every intention of standing by them, and we will do everything in our power to show that we are not going to permit the independent agencies to in any way hinder or harass any employee who is responding to this committee, or any committees, about their function and their duties. We are interested in protecting them and finding out what the policy decisions have been and who has been making them.

Mr. PELLERZI. Mr. Chairman, it was based on that understanding and upon your record, your personal record in the Senate in that regard, Mr. Chairman and I wanted to make that clear. And I believe I did in my opening remarks, that the concern is not with your input, but would-be actions by the Federal Power Commission.

May I, Mr. Chairman, with your permission, be excused?

Senator KENNEDY. Yes.

Mr. PELLERZI. Thank you, sir.

Senator KENNEDY. Mr. Vivian, do your responsibilities include maintaining or disposing of nonnational security documents, that is administrative or confidential documents?

Mr. VIVIAN. No, they do not.

Senator KENNEDY. What are your general responsibilities relating to documents?

Mr. VIVIAN. I am the assistant to the security officer, who is the director of the Office of Administrative Operations and has the responsibility of the safeguarding, control, handling, and the disposition of national security documents and that is one of the jobs that I do.

Senator KENNEDY. Did you ever destroy nonnational security material before?

Mr. VIVIAN. The only time that I destroyed any nonnational security material was shortly after Commissioner Carver left, and I think he left December a year ago.

Senator KENNEDY. When was that?

Mr. VIVIAN. December a year ago, I believe it was. He left a few boxes, about five, as I recall, of papers. I do not know what was in them. They were all sealed up and his administrative assistant asked me next time I was going to the incinerator would I destroy them. So, as a matter of convenience to them I did.

Senator KENNEDY. How long have you worked for the Commission?

Mr. VIVIAN. I came with the Federal Power Commission in June of 1971.

Senator KENNEDY. And that has been the only other occasion of where there has been any destruction of nonnational security documents?

Mr. VIVIAN. That is right.

Senator KENNEDY. When someone brings you material, do they tell you whether it is national security or nonnational security?

Mr. VIVIAN. The only occasion I have had is when Mr. Lawrence Mangen brought this material to me sometime in April. And other than that the only other one was with Commissioner Carver.

Senator KENNEDY. I see. What did he tell you when he brought them to you?

Mr. VIVIAN. Mr. Mangen?

Senator KENNEDY. Yes.

Mr. VIVIAN. He called me on the telephone.

Senator KENNEDY. Do you remember the day?

Mr. VIVIAN. I cannot be specific about the date, Senator, and to the best of my recollection it was around the 23d or 24th of April. He called me on the telephone and asked me if I took care of destroying classified materials. And I told him, yes, I did.

Senator KENNEDY. Well, could you back up a little bit? How did you get into this, can you give us the first time he called?

Mr. VIVIAN. Somewhere around the 23d of April, some time in that period. I can't be specific about the date.

Senator KENNEDY. Tell us the first conversation.

Mr. VIVIAN. That was it.

Mr. SAND. Mr. Chairman, I think there is a slight misunderstanding. If Mr. Vivian can begin again with his answer I think the problem will be solved.

Senator KENNEDY. Good. I'm sorry. Let us start it over again then, all right?

Mr. VIVIAN. Yes, please.

Senator KENNEDY. Did you have a conversation with Mr. Mangen sometime in the spring?

Mr. VIVIAN. The first time I had a conversation with him was sometime in April and to the best of my recollection it was about the 23d of April.

Senator KENNEDY. Can you tell us about that conversation?

Mr. VIVIAN. He called me on the telephone and asked me if I took care of destroying material and I said yes I did, I destroyed classified material. And he told me that he had some administratively confidential material that he would like to get rid of and would I take care of it for him? And I told him that I would if he would bring it on down to the office.

Senator KENNEDY. You did not distinguish between administratively confidential and security material?

Mr. VIVIAN. Oh, yes indeed. Very clearly. I told Mr. Mangen when he brought it down that I would not inventory the material since he told me he was the custodian of it. I would not inventory the material, I would not give him a written destruction report and I would just take it to the incinerator the next time I went over.

Senator KENNEDY. Well, why wouldn't you give him—

Mr. VIVIAN. To make the distinction between national security material for which I am responsible. I do record every item of national security material that is destroyed on a destruction certificate which is on file in the office.

Senator KENNEDY. Did you receive any information or have you any guidelines about what material could be destroyed or what material could not be destroyed?

Mr. VIVIAN. Not about this material, no, sir.

Senator KENNEDY. Any material?

Mr. VIVIAN. The only clear instructions that I had of course relate to the handling of the national security material which was covered in various executive orders and implementing documents.

Senator KENNEDY. Did you ever receive any instructions from Mr. Maxson or Chairman Nassikas or anyone else regarding procedures to be used before destroying nonsecurity material documents?

Mr. VIVIAN. The first specific direction and the only direction I ever got from Mr. Maxson was on the 21st of May, on the 22d of May I believe it was, 22d of May if I am correct, that I was not to destroy any more documents without his or the Chairman's specific approval.

Senator KENNEDY. But, before that time did you ever have any instructions from anyone in authority, about whether you could or could not destroy administratively confidential material?

Mr. VIVIAN. No, sir.

Senator KENNEDY. So, what was your assumption, that they could be destroyed?

Mr. VIVIAN. My assumption was rather straightforward, Senator. When Mr. Mangen brought this material to me it was marked administratively confidential or some sort of a caveat. He showed me a couple of the forwarding letters wherein perhaps the closing paragraph or the penultimate paragraph of the material was to be destroyed or returned to the companies.

He told me that the material was no longer useful, they had developed a compilation and he wanted to get rid of the material.

Senator KENNEDY. Was the cover letter a document of the Power Commission or what?

Mr. VIVIAN. No, sir, from the individual companies concerned, a stack of documents perhaps that high along [indicating] with a work sheet.

Senator KENNEDY. Now, what do you do when you destroy? Would you describe for us the procedures and the facilities for destroying national security documents?

Mr. VIVIAN. The first step I take is to record the material on destruction certificates and get the approval in the past of the Director of the Office of Administrative Operations. Then I tear the material, as is proper destruction procedure, I tear it into four pieces so that it aids in the burning, put it in a brown paper bag and put that inside what we call a candy-striped bag, which is red and white striped.

Senator KENNEDY. Is this the kind?

Mr. VIVIAN. Similar to that. Similar to that. And then seal the bag up tightly, and take a witness with me to the incinerator.

Senator KENNEDY. Can you tell us the circumstances surrounding your efforts to destroy the R-405 documents? Who brought it to you and what was said?

Mr. VIVIAN. That was the material that Mr. Mangen brought to me which I think I just covered. I locked the material up in the bottom of the safe. It was in a safe drawer. I told him I did not know when my next trip to the incinerator would be because I did not have much other material at that time. Sometime around the early part of May, to the best of my recollection, it was around the 3d or something like that, I called in one of the girls in the office who is no longer with us and told her I was going to tear this material up because I wanted to get it to the incinerator because we moved over into this new building.

Senator KENNEDY. How long had that been since he had given it to you?

Mr. VIVIAN. A matter of about 2 weeks, or perhaps a little less, 10 days, or 2 weeks, something in that order. So, I asked Mrs. Hyde to stand and watch me tear the material up and drop it in the burn bag just so if any question ever came up as to what happened to it she could say, "Yes, I saw him tear it up."

I put the material back in the safe and about the next day or the day after perhaps I was ready to go to the incinerator. I had been using the one over in Arlington County just off of Glebe Road. I knew that that incinerator was due to be closed down because of air pollution problems, so I thought I better call them before I made the trip over there. So, I called the manager of the incinerator and he said that has been closed for 2 weeks, which I did not know.

Then I tried to make arrangements with the incinerator No. 5 which is on Benning Road and they told me, "Yes, that it would be all right for me to burn the material," but I never was able to get there before we made the move to the new building.

Senator KENNEDY. And then how was that material recovered?

Mr. VIVIAN. On the 21st of May—I am looking at some handwritten notes—on the 21st of May Mr. Mangen called me in the morning hours to ask if I had destroyed this material and I told him "No, I had torn it up but it had not been burned." He said he needed some pieces, some of the worksheet material, and could he come down and see if he could find the material he was looking for.

He came down and apparently found what he needed and went back to his office and told me as he was leaving he might need more of that, more of the material, so do not do anything further with it.

Senator KENNEDY. But he did not take all of the documents back?

Mr. VIVIAN. No; he did not. He took what appeared to be worksheets, handwritten worksheets.

Senator KENNEDY. But he told you not to destroy the other documents?

Mr. VIVIAN. No; he did not say not to destroy it. He said he might have need for the rest, for some of the rest of the material.

Senator KENNEDY. Well, I mean you must have concluded then you should not destroy it because how was he going—

Mr. VIVIAN. That is quite correct, although he did not say so in that many words.

Senator KENNEDY. And then what happened?

Mr. VIVIAN. On the 22d of May in the morning, Mr. Maxson called me and asked if I had destroyed some documents, information relating to this natural gas survey and I told him no, I had not destroyed them, that they had been torn into pieces but they had not been burned. And Mr. Maxson then told me not to destroy anything without his or the Chairman's specific approval.

Then Mr. Joyce from the Bureau of Natural Gas—at that time the Chief—came down to my office in the afternoon to ask me about this material. I had dumped it out in the safe drawer by this time and Mr. Joyce and I began separating the documents.

I did have some national security material in the same burn bag to conserve space, so I was separating out the truly classified material and Mr. Joyce was taking out the material relating to this R-405. He took out all of the pieces that we could identify and put them in another bag and took them off up to his office, I presume to his office.

Senator KENNEDY. Who did that?

Mr. VIVIAN. Mr. Joyce who was at that time the chief.

Senator KENNEDY. Took all of the remaining material?

Mr. VIVIAN. All of the material.

Senator KENNEDY. And do you remember that date approximately?

Mr. VIVIAN. That was the 22d of May in the afternoon.

Senator KENNEDY. And that is the last you saw of it?

Mr. VIVIAN. Yes, sir. Well, until Mr. Bangert showed me a Xerox copy of one of the pieces at the meeting with the staff.

Senator KENNEDY. Do you remember whether this is the kind of thing that Mr. Mangen referred to when he said—it says here "Texaco further requests that said information either be returned to it or destroyed upon compiling of it?"

Mr. VIVIAN. That is correct. I think, in fact, that is probably one of the pieces of paper, forwarding letters, let me say, that he showed me.

Senator KENNEDY. Then you tore it into four pieces like this document?

Mr. VIVIAN. The bulk of them were torn in four pieces, Senator. Some of them may have only been in three pieces.

Mr. SAND. May we see that document?

Senator KENNEDY. This I guess was submitted to the committee on confidentiality basis by the Commission. Do you want to take a look at the cover letter?

Could you, Mr. Vivian, tell us what went on in your mind when Mr. Mangen just showed you that document or documents similar to it that indicated that the writer hoped that the material would be destroyed?

Did you think in your own mind we should have regulations, or, we do not have regulations and, therefore, it is OK, or what did you conclude?

Mr. VIVIAN. Let me explain this way, Senator. I had handled the contracting work for the Commission. I am not the contracting officer, but a contracting specialist and I know that in the procurement regula-

tions it is quite clear that on certain types of proposals that companies submit for jobs to be done for the Government, the Government is bound to protect the data that the companies submit in developing their proposal.

And except for the successful bidder, the material is either to be returned to these companies or it is to be destroyed. That is a requirement on the Government. I have worked also for a private contracting company at one time, I knew that aspect of the work. I also knew of the confidential nature of the national gas survey because I had worked on that contract.

Senator KENNEDY. Well, in the contracting work do you destroy?

Mr. VIVIAN. That has not come to us. We have not been faced with that problem in the Federal Power Commission.

Senator KENNEDY. At the Commission?

Mr. VIVIAN. But I do know the regulations, Federal procurement regulations do cover the subject.

Senator KENNEDY. So, you did not think it was—

Mr. VIVIAN. I did not think it was anything out of order. I thought in fact that it was quite proper since he was the custodian of the material and he showed me that paragraph and indeed the Government was bound to protect the companies' interest either by sending it back to them or by destroying it. It seemed rather clear cut to me.

Senator KENNEDY. Are you familiar with the United States Code, 18 U.S.C. 2071, which makes it unlawful to willingly unlawfully conceal, mutilate, or obliterate, or destroy material?

Mr. VIVIAN. Yes, sir.

Senator KENNEDY. But you did not think those provisions applied to this?

Mr. VIVIAN. If I had thought this was willful destruction, Senator, or if I had received any instructions contrary to this, I would not have even accepted the material, much less made an attempt to destroy it.

Senator KENNEDY. Now, what are the present instructions that you are under with regard to this?

Mr. VIVIAN. We have had, since February 23, I believe was the date, a new regulation concerning national security material and the instructions from Mr. Maxson and the memorandum from the Chairman which specifically states that I am not to destroy material without either his or Mr. Maxson's approval.

Senator KENNEDY. How about nonnational security?

Mr. VIVIAN. Well, that is what it is primarily directed to.

Senator KENNEDY. Well, that is June 29, yes; is that right?

Mr. VIVIAN. I do not have a copy of that with me, but sometime in that period, yes.

Senator KENNEDY. Mr. Chumbris.

Mr. CHUMBRIS. No, thank you, Mr. Chairman.

Mr. NASH. Just one brief detail, Mr. Chairman. When the documents were brought to you by Mr. Mangen, do you recall whether Mr. Mangen brought you documents for destruction on more than one occasion?

Mr. VIVIAN. No, no. That was the only time.

Mr. NASH. And prior to May 21 when Mr. Mangen took back from you, as you indicated, some of the documents, did Mr. Mangen or

anyone else ever inquire of you as to whether you had ever carried out the instructions to destroy the documents?

Mr. VIVIAN. From the time I got the documents from Mr. Mangen until Mr. Mangen came down that morning of the 21st, I had not had any question, any inquiry, any query of any manner relating to those documents.

Mr. NASH. You put the date that Mr. Mangen brought you the documents for destruction at on or about April 23 or 24?

Mr. VIVIAN. Somewhere in that period.

Mr. NASH. Other witnesses from the staff interview have indicated the date to be on or about April 2, 3, or 4. Do you have any documents, memorandums, or anything to lead you to conclude that one set of dates is correct and the other might be incorrect?

Mr. VIVIAN. No, I do not. I made no record of this. I have not been in the habit of making logs of phone calls and things of this nature.

Mr. NASH. Your staff interview indicates that sometime on May 22 you communicated with someone in charge of another incinerator with regard to destroying the documents. Was it your intention on May 22 to carry out Mr. Mangen's instructions to destroy the documents?

Mr. VIVIAN. Would you please repeat that, Mr. Nash?

Mr. NASH. You stated on page 44:

I hoped to be able to work out a destruction effort with the Government Printing Office which is just diagonally across the street from us. They have an incinerator of their own because they have an awful lot of burning they have to do and I called Mr. Blauer. I called him on the morning of the 22d, I believe, to set up an arrangement. Taking material there would be a short walk across the street.

Mr. VIVIAN. Yes; I recall your questioning me on that.

Before leaving the GAO building where we had been stationed, I knew that all of these incinerators were beginning to close down and I found out that the Government Printing Office did have an incinerator for destroying their classified material, but we had made a contact with them, preliminary contact, and then it was probably on that day, before this problem really came up, and certainly before the 22d I had talked to their security man only briefly to find out what I might have to do to get into the building, because they do have a rather tight security over there.

Mr. NASH. Thank you.

Senator KENNEDY. Thank you very much. We appreciate your testimony.

Mr. VIVIAN. I would like to thank Mr. Bangert for allowing me to come today instead of tomorrow.

Senator KENNEDY. Thank you, Mr. Vivian.

Mr. Victor Zabel.

Mr. Allen, are you here?

Mr. Allen, I am afraid we are going to have to go over with you until tomorrow morning. I apologize for the inconvenience, but I am going to have to leave here at a quarter of, and we only have about 10 minutes if that is possible.

Mr. Zabel, do you swear that the evidence you are about to give is the truth, the whole truth and nothing but the truth, sir?

STATEMENT OF VICTOR ZABEL, BUREAU OF NATURAL GAS, FEDERAL POWER COMMISSION; ACCOMPANIED BY DOLPH DAVID SAND, COUNSEL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. ZABEL. I do.

Senator KENNEDY. Mr. Zabel, Mr. Kofkin's diary indicates that he called you on the 27th of February at which time you told him that the documents in question had been destroyed. Do you remember the call?

Mr. ZABEL. No, sir. I have no recollection of ever talking to Mr. Kofkin on the telephone.

Senator KENNEDY. Did you know in February 1973 that the documents were or might be destroyed?

Mr. ZABEL. I did not know anything about the documents. I was not involved in any way in R-405. I did not know that it had been reissued and I did not know when the order came out to collect the data and I do not know when the data came in. I knew it had come in, but I did not know ever what the status was of the data or the documents.

Senator KENNEDY. Your testimony is that you never talked to Mr. Kofkin?

Mr. ZABEL. Not to my knowledge.

Senator KENNEDY. Well, you would know if you had, would you not?

Mr. ZABEL. Well, I get a lot of phone calls. I did have one phone call regarding this but I do not know whether it was Mr. Kofkin or not.

Senator KENNEDY. Well, tell us about that phone call. When was that?

Mr. ZABEL. Well, sometime in late winter somebody called me and asked me about the R-405 but I do not recall too much about it.

Senator KENNEDY. Well, what makes you so sure that it was not Mr. Kofkin?

Mr. ZABEL. I do not think it was. It might have been. As I say, I do not recall talking to Mr. Kofkin. It may have been Mr. Kofkin.

Senator KENNEDY. Well, you remember having a phone call though?

Mr. ZABEL. I beg your pardon?

Senator KENNEDY. You remember having a phone call?

Mr. ZABEL. I had one phone call and I recall it was early spring or late winter.

Senator KENNEDY. You did not remember though who that was from?

Mr. ZABEL. No, sir. I do not keep a log on my phone calls.

Senator KENNEDY. It could have been Mr. Kofkin?

Mr. ZABEL. It could have been.

Senator KENNEDY. Mr. Kofkin says he did have a phone call conference with you and you remember having a phone call conversation with somebody about this subject?

Mr. ZABEL. About R-405, uncommitted reserve study, yes, sir.

Senator KENNEDY. So, what did you tell him in that conversation?

Mr. ZABEL. I told him I did not collect, as I recall, that I did not collect the data and I did not know anything about it but that I would try and find somebody that did know something about it.

I looked over my shoulder and I guess I saw Mr. Mangen standing outside of his office, either in the doorway or outside and then I said, "Wait a minute, I will find somebody who can tell you this, or tell you something about it" and I called Mr. Managen and said "Somebody wants to know something about the uncommitted reserve study," or something like that, "and he is on my extension."

Mr. Mangen went into his office and he pressed the button for my extension and said hello and I hung up. Now, I do not know whether it was Mr. Kofkin and I do not know what he asked Mr. Mangen, if it was Mr. Kofkin, and I do not know what Mr. Mangen told him.

Senator KENNEDY. Did you hear Mr. Mangen talk to whoever it was who was talking to you?

Mr. ZABEL. He said just hello and I hung up.

Senator KENNEDY. Is your extension 3991?

Mr. ZABEL. It was at that time, yes, sir.

Senator KENNEDY. Did Mr. Mangen also have an extension of 3991?

Mr. ZABEL. Yes, sir. He had on his phone a set of buttons you push which put him on there.

Senator KENNEDY. Well, and he had 3991 on that?

Mr. ZABEL. Yes, sir.

Senator KENNEDY. So, your testimony is that Mr. Mangen talked to whoever called you sometime in the late winter?

Mr. ZABEL. Yes, sir.

Senator KENNEDY. Do you remember if you told whoever this was that you were going to put Mangen on or what did you say?

Mr. ZABEL. I do not know if I gave him a name or just assumed that they would identify each other. I just thought that I would help the man out instead of having to give him another number, and go through and redial. Since I saw Mr. Mangen I could just switch him over right there.

Senator KENNEDY. But you do not remember whether you told the fellow on the other end here comes Mr. Mangen who knows about it or not?

Mr. ZABEL. No.

Senator KENNEDY. Would you say the destruction of company reserve data is routine at the Federal Power Commission?

Mr. ZABEL. The uncommitted reserves?

Senator KENNEDY. Yes.

Mr. ZABEL. It was in the only case I had anything to do with that had uncommitted reserves in it.

Senator KENNEDY. What case was that?

Mr. ZABEL. Docket AR 69-1. It was the second south Louisiana area rate case.

Senator KENNEDY. And that material, reserve data material, was destroyed in that?

Mr. ZABEL. As I recall, the documents that the company filed, they filed them first I believe with an independent auditing or accounting agency and then also with Mr. Mangen, these documents were returned to the companies and then I went out into the field to make an audit of these reserves, I know that these documents were returned to the companies because one of my instructions was that I was to get a list of all of the reserves that the company had put in their documents. They put only the totals in their documents. But, I was to see the individual reservoirs and the field totals and add those up and compare them to what they had filed with the documents. These documents would have to have the initials of the independent accounting agent and Mr. Mangen's initials so I know that the documents were returned to the company. Now, the workpaper that I generated, my notes and computations and so forth, according to my orders, I destroyed those before I left the company offices.

Senator KENNEDY. So, you did not bring anything back to Washington with you?

Mr. ZABEL. No, sir. That was my instructions, procedure.

Senator KENNEDY. Who gave you those instructions?

Mr. ZABEL. Mr. Mangen gave me those instructions and they appear in his testimony in that case. I believe the committee has a copy of that.

But, the procedures were worked out during the prehearing conferences by staff counsel and counsel for the parties to the case with some input from technical people from both staff and the companies.

Senator KENNEDY. You were even searched before you left the company offices?

Mr. ZABEL. They were told that they could search us bodily or they could search our briefcases. Only one company availed themselves of the opportunity to search our briefcases.

Senator KENNEDY. And who told them that?

Mr. ZABEL. That was stated during one of the prehearing conferences. They were very leery about anybody walking out with any of their documents.

Senator KENNEDY. But who told them that they could search you?

Mr. ZABEL. Staff counsel, I believe.

Senator KENNEDY. That is the general counsel of the Commission or—

Mr. ZABEL. No, the staff counsel that was assigned to the case.

Senator KENNEDY. You do not remember who that was then?

Mr. ZABEL. I think it was Richard Mattingly who I worked with most on it, but it was a general procedure. The lawyers are the ones that searched the briefcases.

Senator KENNEDY. Were there direct Commission orders on retention or destruction of documents that you knew of either in the south Louisiana case or R-405?

Mr. ZABEL. I do not know about R-405. I have not worked on that in either the initial or the reissue of it but in 69-1 I do not know what the Commission policy was.

Senator KENNEDY. What do you assume it to have been?

Mr. ZABEL. I assumed it was what my instructions were, that I was to do this in order to safeguard myself.

Senator KENNEDY. Did you ever see any general regulations about this destruction, document destruction, at the Federal Power Commission?

Mr. ZABEL. No, sir, not until some time this spring when something came out to all bureau and office heads citing the Natural Gas Act and some other acts and showing the penalties for not complying with the act.

Senator KENNEDY. So, you assumed as a result of the southern Louisiana case that destruction of material was one standard way of disposing of it?

Mr. ZABEL. I assumed that was the case since it was in 69-1 and that was the first time we have ever gotten into these uncommitted reserve areas.

Mr. CHUMBRIS. Well, I know there is a time limitation, Mr. Chairman. How much time do we have?

Senator KENNEDY. About 2 minutes.

Mr. CHUMBRIS. I am going to make it very brief. But, on page 18 through about 22 of this transcript of your interview with Mr. Bangert and Mrs. Bario, you have indicated pretty much what you have said here this morning. We do not have the affidavit that you have given of your testimony with the Federal Power Commission, so we do not know what you have stated there. Could you give us the substance of what you told the Federal Power Commission interviewer?

Mr. SAND. We do have a copy of that statement here presently, and if you would like to have a copy of that, I think we can supply that to you.

Mr. CHUMBRIS. All right. In other words, if you will leave that for the record, there is no need for me to ask you anything further. We will take what you have said now, what you have said back here in the interview and what you told the Federal Power Commission to see if there are any inconsistencies and how they can be resolved.

[The statement referred to appears during the testimony of Mr. Albares.]

Mr. SAND. If you will give us 1 minute.

Mr. CHUMBRIS. We do have a time limitation. Otherwise, I thought we could proceed further, but with that additional information then it is up to the two subcommittees to decide how we view this testimony.

Is that agreeable with the Chairman?

Senator KENNEDY. This is fine.

Mr. SAND. This is the only copy we have.

Senator KENNEDY. We will make a copy of it and it will be made a part of the record and we also want to make a part of the record the memorandum to all bureau heads of June 29, 1973.

[The memo follows. Testimony resumes on p. 945.]

FEDERAL POWER COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., June 29, 1973.

MEMORANDUM TO ALL BUREAU AND OFFICE HEADS

This memorandum reconfirms instructions previously given to bureau and office heads concerning the safeguarding of confidential information, and directs that these instructions be brought immediately to the attention of all employees and be strictly observed by them.

All documents and other papers which are required by Commission order or other appropriate authority to be treated as confidential material shall be physically maintained or kept under suitable custody without unauthorized disclosure and shall not be destroyed or otherwise disposed of except upon the specific written authority of the Chairman.

In this connection, the attention of all employees shall be directed to the following statutory provisions:

Natural Gas Act, Sec. 8(b), 15 U.S.C. 717g, Accounts, Records, and Memoranda

* * * * *

"(b) The Commission shall at all times have access to and the right to inspect and examine all accounts, records, and memoranda of licensees and public utilities, and it shall be the duty of such licensees and public utilities to furnish to the Commission, within such reasonable time as the Commission may order, any information with respect thereto which the Commission may by order require, including copies of maps, contracts, reports of engineers, and other data, records, and papers, and to grant to all agents of the Commission free access to its property and its accounts, records, and memoranda when requested so to do. No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided except insofar as he may be directed by the Commission or by a court."

Federal Power Act, Sec. 301(b), 16 U.S.C. 825(b)

[This provision is identical except that it applies to records and information relating to electric companies.]

Title 18, United States Code, Crimes and Criminal Procedure, Sec. 2071

"Records and Reports; Concealment, removal, or mutilation generally."

"(a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined not more than \$2,000 or imprisoned not more than three years, or both.

"(b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined not more than \$2,000 or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States."

JOHN N. NASSIKAS,
Chairman.

THE NATURAL GAS INDUSTRY

(Attempted Destruction of FPC Documents)

WEDNESDAY, OCTOBER 17, 1973

U.S. SENATE,
SUBCOMMITTEE ON
ANTITRUST AND MONOPOLY AND
SUBCOMMITTEE ON ADMINISTRATIVE
PRACTICES AND PROCEDURES
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:45 a.m., in room 2228, Dirksen Senate Office Building: Senator Philip A. Hart, chairman of the Subcommittee on Antitrust and Monopoly; Senator Edward M. Kennedy, chairman of the Subcommittee on Administrative Practice and Procedure.

Present: Senator Edward M. Kennedy, presiding.

Staff present: Subcommittee on Antitrust and Monopoly—Charles E. Bangert, general counsel; Bernard Nash, assistant counsel; Patricia Bario, editorial director; Janice Williams, chief clerk; Peter N. Chumbris, minority chief counsel; Charles E. Kern II, minority assistant counsel; Subcommittee on Administrative Practice and Procedure—Thomas M. Susman, assistant counsel; and Ann Landman, staff assistant.

Senator KENNEDY. The subcommittees will come to order.

This morning we resume the joint hearings of the Subcommittee on Administrative Practices and Procedure and the Subcommittee on Antitrust and Monopoly, focusing on the Federal Power Commission's survey of natural gas reserve, and the Federal Power Commission's handling of the documents obtained in the course of that survey. We will continue to hear from officials and employees of the Federal Power Commission.

Mr. Frank Allen.

Mr. Allen, do you swear the evidence you are going to give is the truth, the whole truth and nothing but the truth, so help you God?

STATEMENT OF FRANK ALLEN, CHIEF, BUREAU OF NATURAL GAS, FEDERAL POWER COMMISSION

Mr. ALLEN. I certainly do.

Senator KENNEDY. Mr. Allen, I believe you are familiar with the circumstances surrounding the attempted destruction of documents, R-405.

Do you have anything to add to what we have so far?

Mr. ALLEN. I think, Mr. Chairman, that your statement is in part incorrect.

Senator KENNEDY. I see.

Mr. ALLEN. As I indicated to your staff, or the staff of Senator Hart's committee, I knew absolutely nothing about this purported destruction of documents until I read it in the newspaper. As far as my capacity with the Federal Power Commission is concerned, I knew nothing, absolutely nothing about this until it appeared in the newspapers.

Senator KENNEDY. Have you had a chance to review the facts or the statements or the testimony that has been provided by the members of the Power Commission?

Mr. ALLEN. No, sir. I listened, of course, yesterday to the statements that were made here. I have not reviewed any statements from anyone other than myself. I have heard some discussion of it and things of that kind.

Senator KENNEDY. These materials that were attempted to be destroyed, what comment would you make about Mr. Mangen's conduct or role?

Mr. ALLEN. What I would have to say there would have been entirely all hearsay. I had no direct knowledge. I do not know of any instructions that may or may not have been given to Mr. Mangen. But, if you are asking a general question as to the propriety of destroying records which were submitted, which I think you read from a letter yesterday, under a covering letter which says either return them or destroy them, I would have a hard time placing any fault on one who would attempt to destroy them, personally.

Senator KENNEDY. So, you do not think he did anything that was wrong on this occasion?

Mr. ALLEN. As I said, I have no idea what instructions were given, and what any standard procedure may have been.

Senator KENNEDY. Well, what were the procedures in the Commission at the time?

Mr. ALLEN. I do not know.

Senator KENNEDY. No one has ever talked to you about the question of the confidentiality of different materials that are being made available to the Commission?

Mr. ALLEN. Not at the time this incident took place.

Senator KENNEDY. Did it ever occur before that you know about?

Mr. ALLEN. No, sir, not that I know about.

Senator KENNEDY. Well, do you feel now looking back that you should have known about it?

Mr. ALLEN. In the positions which I occupy as trial attorney, as assistant general counsel, as a technical assistant to Commissioner Moody, to the best of my knowledge I never handled any confidential information. I would see no reason for anyone to—I do not think that I would have been put in the position of handling this type of thing, and I would see nothing unusual about not receiving instructions.

Senator KENNEDY. Were there any instructions that came to your attention about how to handle confidential material?

Mr. ALLEN. Not before I went to the Bureau of Natural Gas in July of this year, and I had indirectly become aware that it was the

Chairman's policy not to destroy anything. But prior to this incident, no. I was not aware of anything.

Senator KENNEDY. Well, is not Mr. Mangen under your authority?

Mr. ALLEN. He is now. He was not then.

Senator KENNEDY. He was not then?

Mr. ALLEN. No. And now he has been told, as all of us have been told, not to destroy anything.

Senator KENNEDY. Were you familiar with the general Government regulations about not destroying documents at all?

Mr. ALLEN. Yes, sir, I am.

Senator KENNEDY. What did you think those meant?

Mr. ALLEN. Well, I think they mean exactly what they say, and would be interpreted in a reasonable manner by a court. As, for example, the regulation says you may not destroy Government property, and when the staff was interviewing me in connection with this back in June sometime questions were being passed on one of those slips of paper, and they asked the question and would ball up the paper and throw it in the trash can. Now, I do not consider that as something that would be destruction of Government property. I think that this has to be reasonable.

In connection with these particular documents, I think I informed your staff that in my own personal judgment there is a serious question in my mind as to whether these documents were ever Government property. I say that for this reason. There was a covering letter which says, "we are submitting this information on a confidential basis. When you have used it, return it or destroy it."

I am not sure that is possession as such in a legal sense, as transferring property of the Government.

Senator KENNEDY. Recognizing the statute which entitled the Commission to gain this information, can the gas companies or oil companies put on any conditions that they want to?

Mr. ALLEN. Yes. When you ask for information voluntarily and then if they do not provide information in the manner which you think it should be provided, then we have a process to go and get it, I suppose.

Senator KENNEDY. Do you interpret the request as being sort of a voluntary submission of material?

Mr. ALLEN. That is my understanding.

My understanding is that this was done more or less on a voluntary basis before that information was submitted, and whether it was or not, if I provide any item of my property to you and ask that you return it, I do not think I have given you possession of it. Now, if you want that document or that property, you have a legal right to go after it in an appropriate legal manner.

Senator KENNEDY. Then they are free to destroy it, are they, under your interpretation? They were free to destroy it, go ahead and destroy that?

Mr. ALLEN. Who is that?

Senator KENNEDY. Well, the functionaries of the Federal Power Commission?

Mr. ALLEN. Absent instructions to the contrary, I would think so.

Senator KENNEDY. Well, this is the order on 405 and it says "It is ordered that the investigation initiated by notice issued November

4 be updated by the filing by the natural gas companies listed," and then it continues.

That seems to me to be more than just a voluntary request, particularly given against the background of the mandate of the legislation in the Natural Gas Act.

Mr. ALLEN. My feeling was that in the initial 405, the information was submitted on a voluntary basis, and when it was updated, that it carried with it that same vein of a voluntary response.

Senator KENNEDY. So, your feeling is that Mangen did nothing that was culpable?

Mr. ALLEN. In the absence of instructions to the contrary, or procedures to the contrary, that would be my judgment, yes.

Senator KENNEDY. And you have no heard of any procedures to the contrary?

Mr. ALLEN. I had not at that time, and I had no occasion to hear of them, of procedures either way.

Senator KENNEDY. Is he working for you now?

Mr. ALLEN. Yes, sir.

Senator KENNEDY. What is he doing at the present time?

Mr. ALLEN. He is occupying the same position now that he occupied at that time. He is in our gas supply section.

Senator KENNEDY. What are his duties, for example, today? What is he doing?

Mr. ALLEN. Well, he is——

Senator KENNEDY. I guess he is in the audience.

Mr. ALLEN. I beg your pardon?

Senator KENNEDY. He is in the audience today.

What, though, are his responsibilities? What are you asking him to do now?

Mr. ALLEN. Under Mr. Albares' general supervision of that section, I personally consider Mr. Mangen to be in an informal position of assistant to Mr. Albares. That section, and Mr. Mangen in that section, has the responsibility for reviewing reserve estimates of any type that are sent into the Commission or that we need in connection with any case. He evaluates geological data, very complex geological data, and makes his estimate of what reserves would be. He would either present evidence in a case on this, or add this calculation of his with something that had been submitted by someone else, and indicate whether that submitted, in his judgment, was reasonably accurate.

Generally he is an expert in the geology and geological field.

Senator KENNEDY. Well, is it business as usual now for Mr. Mangen over at the Power Commission?

Mr. ALLEN. As far as I am concerned, it is business as usual.

Senator KENNEDY. Well, you are his superior. Is it or is it not? You know, this is not just someone who is an obscure figure. He is a well-known figure, and obviously I want to know whether he is accepting now a full workload and performing his responsibilities.

Mr. ALLEN. I have no reason to complain about the workload that Mr. Mangen has accepted. He has not shied away, to my knowledge, from any assignment that he has been given, nor have assignments been directed away from him in any fashion.

Senator KENNEDY. But as far as your understanding, has he got a full workload at the present time?

Mr. ALLEN. Yes, sir.

Senator KENNEDY. Have you felt compelled, since you have these strong views, to speak out in his behalf to the Commission?

Mr. ALLEN. Yes, sir. I have.

Senator KENNEDY. What happened?

Mr. ALLEN. That took place——

Senator KENNEDY. I think it is to your credit, quite frankly, if you did that.

Mr. ALLEN. Well, I am interested in the process and procedures also. That took place in a Commission meeting, and I am really not sure I should divulge. I think I am compelled to observe confidentiality as far as what goes on in those meetings, and I just do not feel free to discuss it.

Senator KENNEDY. Well, can you answer this:

Were you asked to leave a meeting because you stood up for Mr. Mangen?

Mr. ALLEN. Not directly, no, sir.

Senator KENNEDY. Well, indirectly?

Mr. ALLEN. Again, I cannot say that I was asked directly or indirectly.

Senator KENNEDY. What is confidential about whether you came to his defense or not?

Mr. ALLEN. I am sorry, sir, I did not hear you.

Senator KENNEDY. What is confidential about whether you came to his defense at the meeting and the Commission's response?

Why would that be privileged?

Mr. ALLEN. I consider everything that goes on in a Commission meeting as confidential, except the orders which may issue as a result of those meetings, or the minutes of those meetings which appear in our public record. I think it is a matter of trust, and if I were in the position of a Commissioner, I would like to feel free to discuss anything in those meetings with the full knowledge that my employees would keep the gist of that conversation within the confines of that meeting.

Senator KENNEDY. Well, we are talking about the justice to an individual as well.

Mr. ALLEN. I understand.

Senator KENNEDY. Is the question of the privilege of confidentiality over something which certainly would not appear to have the national interest as an overriding consideration more important than justice to a single individual that may be left out there high and dry?

I mean, where are the loyalties and the rights now?

Mr. ALLEN. You are getting back to what I consider the fundamental question in this whole proceeding. If there are legal methods by which I am obligated to disclose what went on in a Commission meeting, I will, of course, honor that type of thing. Absent any obligation that I can see, I feel compelled to honor the trust that I think has been placed in me here. I feel exactly the same way in connection with these documents.

Senator KENNEDY. Well, did you ever tell anyone, any employee of the Commission about what happened at that meeting?

Mr. ALLEN. There were employees there.

Senator KENNEDY. Pardon?

Mr. ALLEN. There were employees there.

Senator KENNEDY. Well, did you ever tell anybody who was not there about what happened in the Commission meeting?

Mr. ALLEN. I may have.

Senator KENNEDY. Pardon?

Mr. ALLEN. I may have.

Senator KENNEDY. Well then, why—

Mr. ALLEN. And if I did, I violated the trust.

Senator KENNEDY. Well—

Mr. ALLEN. I may have told the staff. I don't know.

Senator KENNEDY [continuing]. Well, why would you tell the staff and not tell us?

Mr. ALLEN. I do not know. I have thought about this very seriously, and this question of trust has come up considerably since this time, and I have done some real soul searching in connection with it. And I feel that if I did discuss it, that that discussion was wrong, that it was a violation of my trust for which I now regret, and I just do not feel privileged to discuss it.

Senator KENNEDY. You have obviously given a good deal of thought about the responsibility of respecting confidentiality, and your sense of obligation to the Commission. I suppose, there is a responsibility to the public and to the Congress as well. I mean, these are obviously balanced issues. We have got a right to know as well, Mr. Allen.

Mr. ALLEN. Well, if you can demonstrate to me that right, as I indicated earlier, I obviously will comply, and I feel very strongly about these things. But, I have not seen a demonstration of that right. If I were a law clerk to a judge, I do not think the public would have any right to the conversations between the judge and myself. Now, I do not view my relationship that different in this instance. This is a body that has been constituted to administer the Natural Gas Act, and obviously they are charged with administration of the employees there, and I do think there is a position of trust there that the public is not entitled to in my opinion.

Senator KENNEDY. Well, there is also a sense of justice to an individual. We heard yesterday Mr. Maxson indicate to us that he had not reached his final conclusion about the culpability or the degree of discipline—

Mr. ALLEN. That is right.

Senator KENNEDY [continuing]. That Mr. Mangen might be subjected to. He is waiting for the hearings. Obviously it makes a great deal of difference, I would think, the attitude of superiors, whether they knew, whether they felt these things were standard operating procedures, and how far up the line it goes, and the Commission's response on it. And here you are telling us that you are more interested in the confidentiality of a matter, which, as I say, is all I am asking. I am not asking you about the other details of that meeting. I am just asking you whether you stood up for him, and what the response was.

Have you talked to anybody in the Commission about whether you were going to share your views about that Commission meeting with the committee here this morning?

Mr. ALLEN. No, sir. No, sir. This is a very personal matter with me.

Senator KENNEDY. How do you think Mr. Mangen's family feels now with the possibility of getting some kind of disciplinary action?

He has had a career in the Federal Government, and now he may very well get some kind of a censure.

Mr. ALLEN. I am sure his family must feel very badly about this.

Senator KENNEDY. And there is some information at least that is not—

Mr. ALLEN. As a matter of fact, I can disclose this. I do not think there is any confidentiality that is attached to this at all. Mr. Mangen has himself personally told me that his family is very upset over this.

Senator KENNEDY. Have you expressed displeasure with the Office of Economics in the past?

Mr. ALLEN. Yes, sir.

Senator KENNEDY. Can you tell us why?

Mr. ALLEN. Yes. I personally do not place a great deal of reliance in what advice they give. I am sure that raises a question and I am going to give examples, which I will do, and I will try to give the most recent ones.

Yesterday, for example, the head of that department, Dr. Wald, indicated in general that he felt that it was most unusual for the supply of natural gas to continue to decline in the face of increasing prices. And in my own judgment, the underlying economic principle that he was applying is perfectly valid in a free economy, that supply will respond to price, and generally speaking, more efficient firms in the market, and they will produce whatever gas and services the public demands. If the gas and services are not produced, the price will be increased until they are.

But, now, when you superimpose regulation upon the free market forces, I do not think that is a valid principle any more. And as a matter of fact, it is recognized in utility law and in utility regulation, it is recognized in this fashion: the utility company is given a franchise in a free area, and in most instances they are compelled to provide service. There is no free entry into the providing or not providing of service. They are forced to. In the typical utility situation this takes the place of that incentive which the profit and price play.

Now, take those same principles and apply them to an independent producer who is not compelled, who does not have a franchise, who has no obligation to sell, and I think the principle just does not comply at all in any fashion.

Senator KENNEDY. What is your background in natural gas regulation and economics of natural gas?

Mr. ALLEN. I will try to take them one at a time.

My background—

Senator KENNEDY. Well, just briefly, because we have a full morning.

Mr. ALLEN. Well, the reason I said it that way is I understood three questions in what you asked. What is my background in public utility regulation, in natural gas, and in economics, and I did not think that I would answer all of those at once.

Senator KENNEDY. Right.

Mr. ALLEN. My background in public utility regulation includes 17 years of experience with the Potomac Electric Power Co., in the office of economics, rates, and economic research. I will document this. If that will satisfy you, I will say I have 17 years in economic research and rate regulations from the utility standpoint.

Senator KENNEDY. From the utility standpoint?

Mr. ALLEN. Yes, from the utility standpoint. In addition, I was a trial counsel with the Federal Power Commission in gas pipeline rate matters. I was an assistant general counsel in charge of both gas pipeline and electric rate matters.

As far as economics is concerned, I have a degree in business administration, which I think is more applicable in this instance, and a degree in law, and I was responsible for economic studies for gas and things of that type with the Potomac Electric Power Co. I have approximately now, 21 years in public utility work from a utility and regulatory commission point of view.

Senator KENNEDY. Is your principal concern about the Office of Economics because of the substantive economic reports that they have, or because they oppose the Commission so often?

Mr. ALLEN. Well, as I indicated, I disagree many times with the philosophy.

I do disagree with the philosophy many times. I also disagree with the quality.

Senator KENNEDY. With the quality?

Mr. ALLEN. Yes, sir.

Now, to give you an example of this, I do not know whether you have a copy of it or not, but I just recently wrote a letter to the Committee on Interior and Insular Affairs commenting on some of the testimony that was given there by our Office of Economics. Now, in that testimony, given by Dr. Wald, for example, he says that in your deliberations I think you should consider the fact that gas producers under the Federal Power Act are given the right of eminent domain, and inferring that they are given the right to condemnation.

Well, in factuality, that just is not true. The Natural Gas Act does not confer upon a producer any such right.

In the context of testimony, sworn testimony given here just yesterday, you were given what I consider to be a very flip answer to a question that you asked. You said, or you asked one of the witnesses what is the effect on the consumer of the *Beleo* decision, and as I recall the response, he says, oh, that is easy to give you, all I have to do is get the volume and multiply that by the differences in the rates.

Well, sir, I would suggest to you that answer is not true. It is not true. Now, this goes beyond any philosophic area.

Senator KENNEDY. Is this the letter that was sent to the Senator from Mr. Frank Allen, this 15 pages?

Mr. ALLEN. Yes, sir.

Senator KENNEDY. Fifteen page letter, and at the end of it it says:

While I assume full responsibility for the foregoing comments, they are the product of joint efforts of the Office of General Counsel and Bureau of Natural Gas?

Mr. ALLEN. Yes, sir. Yes, sir.

Senator KENNEDY. OK.

Mr. ALLEN. Now, let me clarify what I was saying about the testimony yesterday. I think it is very, very serious. In the procedures set up, the optional pricing procedure, a producer who wishes to avail himself of that procedure has to agree, and does agree by the filing of

any certificate application under that procedure, to forgo any contingent escalations that he might be entitled to under the Commission's area rate proceedings. To give you a specific example in this case, both Tennessee or Tenneco, rather, Tenneco Oil and Texaco have other operations in the southern Louisiana offshore area, in the southern Louisiana area covered by area rates. They have agreed to forgo any contingent escalations that they might be entitled to, and I would suggest to you that that is worth money, and I personally cannot determine how much. And I do not believe there is anyone else in the Federal Power Commission who can give you a definitive answer on that.

Senator KENNEDY. OK.

Well, if you want to submit some other material on that particular point, we would welcome it.

Mr. ALLEN. Fine, sir. I would be happy to.

Senator KENNEDY. OK. Thank you very much.

I am sorry, Mr. Chumbris. Excuse me.

Mr. CHUMBRIS. Well, I was not really going to ask you a question, Mr. Allen. But, yesterday when Mr. Wald was here, we were discussing the issue that you are now discussing about the Office of Economics.

Mr. Allen. Yes, sir.

Mr. CHUMBRIS. And I pointed out that under the operations at the Federal Power Commission, the Office of Economics has the privilege of appearing before the Commission to argue the case. And I said that is a healthy situation. You have the Office of Economics, and after all, that is a setup of the Federal Power Commission under established law that we have to look at, and that is their system, and another agency might have another system. And I pointed out that once you have made your say, and the Commission has acted, then the question comes up whether it is appropriate for you to do the things that you stated in your paper. One such thing might be leaking information or contacting maybe a Member of Congress, and so forth. Now, the same thing would apply to you.

Mr. ALLEN. Absolutely.

Mr. CHUMBRIS. As I understand, from at least what we have gotten in our record, that the question of changing the head of Office of Economics status from civil service to schedule C type of a position, has been submitted to the Chairman and he has turned it down. And since he has made that decision, then you as a staff man should accept that.

Mr. ALLEN. I do.

Mr. CHUMBRIS. And the constant bickering between either the General Counsel's Office or the Bureau of Natural Gas or some other division with the Office of Economics should not actually be left to the Commission if that is their responsibility.

Do you agree? Because it really makes a divisive house in your operating, and you are not going to get the efficiency that Congress expects under the law, and that the Federal Power Commission would expect if division A, division B, division C, and division D are working at odds rather than working together under the act. And that is the point. We are going to be getting this Office of Economics question over and over again, and I wish people would have that in mind when they come before us. Of course, we cannot do anything about what

you have done in the past, but only as far as what you are going to do in the future.

Mr. ALLEN. Well, certainly I had no input whatever. I have no druthers, really, whatever as far as what the status of the Chief of the Office of Economics is, whether he be schedule C, whether he be protected in any other fashion. I am totally unconcerned about this. It really does not matter to me, just as I am totally unconcerned about my own position.

Mr. CHUMBRIS. I just have one other question that I want to ask you.

Do you of your own knowledge know what happened in a previous case, and I think it is AR 69-1, which was in 1970?

Mr. ALLEN. No, sir.

Mr. CHUMBRIS. And how they operated and whether they did or did not burn certain papers in that case?

Are you aware of that?

Mr. ALLEN. If you say of my own knowledge am I aware—

Mr. CHUMBRIS. That is all I want you to answer. I do not want you to give me any hearsay or anything. I just want to know of your own knowledge.

Mr. ALLEN. I did not participate in the case in any fashion. I was not present when any documents were received, handled, disposed of or anything like that, nor had any participation.

Mr. CHUMBRIS. If other witnesses will testify to that fact, and Mr. Mangen depended upon that prior method of operation, then that should have some significance to those who may be considering Mr. Mangen's action?

Mr. ALLEN. I hope all facts.

Mr. CHUMBRIS. I have nothing further, Mr. Chairman. Thank you.

Senator KENNEDY. Thank you very much.

Mr. Pavetto.

Do you swear to tell the truth, the whole truth and nothing but the truth?

STATEMENT OF CARL PAVETTO, FORMERLY PETROLEUM ENGINEER, BUREAU OF NATURAL GAS, FEDERAL POWER COMMISSION

Mr. PAVETTO. Yes, sir, I do.

Senator KENNEDY. Can you recite generally the time period involved in the work you performed regarding R-405 documents?

Mr. PAVETTO. Yes. I think it started about—well, the fall of 1972 and lasted up until early this year in March or April.

Senator KENNEDY. Did you ever receive instructions concerning the confidentiality of the documents or the manner in which to handle them?

Mr. PAVETTO. Yes. I was under the understanding that these things were supposed to be confidential. But, then again, I was under the understanding that, you know, just about everything that went on at the FPC was to be confidential as far as people not concerned with FPC.

Senator KENNEDY. Well, did you treat these any differently from the other materials that you handled at the Commission?

Mr. PAVETTO. No, not really.

Senator KENNEDY. Were they kept in a safe, for example?

Mr. PAVETTO. No, they were not.

Senator KENNEDY. Were you told to keep them locked up?

Mr. PAVETTO. No, sir; I was not.

Senator KENNEDY. Where did you keep them?

Mr. PAVETTO. I kept them on my desk. Well, no, actually it was not. For awhile there I did not have my own desk and I worked at another desk, and I kept them there, and when I eventually got my own desk, then I kept them on my desk.

Senator KENNEDY. Were you ever instructed respecting the rules of destroying FPC documents?

Mr. PAVETTO. No, sir.

Senator KENNEDY. Have you had any instructions since May?

Mr. PAVETTO. Yes. There was a letter that came down from the Chairman of the Federal Power Commission quoting one of the FPC regulations, I guess, where no documents are supposed to be destroyed.

Senator KENNEDY. Did they send it to you personally?

Mr. PAVETTO. No. I think it was passed around to just about everyone, at least everyone in the Gas Supply Section.

Senator KENNEDY. Now, you indicated that you worked up the concentration material for O&E, did you?

Mr. PAVETTO. Yes. Yes, I did.

Senator KENNEDY. And what did you work up?

Mr. PAVETTO. Over a period of time I worked up totals of uncommitted gas reserves and then I worked up the 4 largest producers and the 8 largest producers and the 20 largest producers for various areas of the United States.

Senator KENNEDY. How long did it take you to do the 4 largest, 8 largest and 20 largest?

Mr. PAVETTO. Well, the actual calculations took approximately 2 or 3 days, but this project did not occur all at once. It dragged out over maybe the period of a month. I do not exactly remember because the first time we came in they wanted the four largest and the eight largest, and I worked them up.

Senator KENNEDY. How long did that take you?

Mr. PAVETTO. I would say 3 or 4 days.

Senator KENNEDY. For the first two?

Mr. PAVETTO. Yes.

Senator KENNEDY. And then what did it take you?

Mr. PAVETTO. Then on the 20 largest, it was not—it was not—it maybe took a half a day or a day.

Senator KENNEDY. Who asked you for the material?

Mr. PAVETTO. Mr. Mangen.

Senator KENNEDY. And who did you give it to?

Mr. PAVETTO. Mr. Mangen.

Senator KENNEDY. And how long did it take to prepare the concentration ratios for Senator Hart?

Mr. PAVETTO. I do not remember which ones were particularly for Senator Hart.

Senator KENNEDY. The 4, 8 and 20.

Mr. PAVETTO. I assume that the 4, 8 and 20 that I worked up took, I assume—you mean—well, it took about a half a day because like I said, the 4 and the 8 were already done, and all I had to do was to go back and take the 20 largest. So, it only took a half a day or a day as far as I can recall.

Senator KENNEDY. Now, how long after you gave Mangen the four- and eight-company concentrations did Mr. Kofkin call you about a mistake?

Mr. PAVETTO. I would say that it was about a month or a month and a half. I do not remember exactly how long it was, but I was surprised because it was so long after I had turned this project in.

Senator KENNEDY. Do you know why it took OE 3 weeks or a month to get the ratios?

Mr. PAVETTO. No, I do not know why. I did not know at the time, and I seem to recall some—I was interviewed and I found out why, but I am not real sure.

Senator KENNEDY. Mr. Kofkin testified that on the afternoon of April 3 he picked up from you corrections on the concentration ratios from OE.

Does that correspond with your recollection?

Mr. PAVETTO. I cannot say that it was exactly April 3, but he is right, he did pick it up at about that time.

Senator KENNEDY. Was this also the date that Mr. Mangen told you that he was going to destroy the documents so that you would not be bothered anymore by the Office of Economics?

Mr. PAVETTO. I could not say if that was the exact day or not.

Senator KENNEDY. Well, will you tell us about that conversation?

Mr. PAVETTO. That is very difficult to do because I was not—I did not really—I do not remember everything. But, I do remember he was suggesting that these documents ought to be destroyed; these papers ought to be destroyed because the Office of Economics was calling them, you know, were on our backs.

Senator KENNEDY. Were on our what?

Mr. PAVETTO. Were on our backs about the mistakes.

Senator KENNEDY. What do you mean by that?

Mr. PAVETTO. Well, this Mr. Kofkin, I think, had called over I think on two occasions to complain about mistakes in these documents, and the first time he called—well, anyway, he called I think it was twice, and then I do not know if it was the same day or not, but I remember he had, he had let it be known that we had mistakes in our documents. So, then I guess when he came over to actually pick up the corrections I had made, that is when, sometime around there, I guess, is when Mr. Mangen suggested that these documents ought to be destroyed. But, I didn't—I did not take him seriously, I thought he was kidding. But, if he was serious though I did not think it was any great thing, you know. I did not think it was anything extraordinary.

Senator KENNEDY. Well, did you think that he was kidding, or did you think he was serious, or what?

Mr. PAVETTO. I thought he was kidding the first time he mentioned it.

Senator KENNEDY. How many times did he say it?

Mr. PAVETTO. Well, that again is hard to say.

Senator KENNEDY. Well, did he say it more than once?

Mr. PAVETTO. Yes, I think he did. I think the first time he said, like I said, the first time he said it he said it in a joking manner, and I thought he was just, you know, airing a complaint because Mr. Kofkin had called up several times to complain about mistakes. But then—and I cannot tell you how long after that—he said, "Well, I am going to have the papers destroyed," or he maybe even said, "I did have them destroyed," or "I sent them down to be destroyed." I do not remember exactly, but he did say it again, and then I knew that he was not kidding.

But still, you know, it did not strike me as anything extraordinary because the papers were never really treated—they were never given any special treatment.

Senator KENNEDY. When did you believe that he was going to go through with the destruction of the materials?

Mr. PAVETTO. When I believed it?

It would have to be after he had already sent them to be destroyed and he mentioned to me, he said, "I sent the papers down to be destroyed."

Senator KENNEDY. Do you remember when that was?

Mr. PAVETTO. I think it was the end of April, but I do not really know for sure.

Senator KENNEDY. So, you are not able to give the number of conversations with you about destroying the material?

Mr. PAVETTO. Well, see, he never actually came up to me and said, "Listen, I am going to have these papers destroyed." It was not actually, you know, conversion between us two. It seemed to me more, you know, just an airing of a complaint, just something he said because when somebody is irked, you know, you naturally say something that is going to make you feel a little bit better, and that is what I thought he was doing. And I thought he thought, "This guy, Kofkin, is on our backs, so I am going to throw these papers away so that he cannot bug us anymore." But he did not come and say, "Now listen here, I am going to get rid of these papers." He did not do anything like that. It was more or less informal.

Senator KENNEDY. Mr. Chumbris.

Mr. CHUMBRIS. I have no questions, Mr. Chairman.

Senator KENNEDY. Thank you very much.

STATEMENT OF JOYCE POWELL, BUREAU OF NATURAL GAS, FEDERAL POWER COMMISSION; ACCOMPANIED BY DOLPH DAVID SAND, COUNSEL

Senator KENNEDY. Mr. Sand, we also want to welcome you back this morning.

Mr. SAND. Thank you, Mr. Chairman.

Senator KENNEDY. Ms. Powell, do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Ms. POWELL. Yes.

Senator KENNEDY. Thank you.

Can you tell us when was the first time that you were informed by Mr. Mangen that the R-405 documents were going to be destroyed?

Ms. POWELL. October of last year when the project was assigned to me.

Senator KENNEDY. Mangen indicated that the companies either said to send it back or destroy it?

Ms. POWELL. Yes.

Senator KENNEDY. And this was back in October he told you that, is that right?

Ms. POWELL. Last October, right.

Senator KENNEDY. Did he ever mention to you destruction again?

Ms. POWELL. In March or April he said he was going to take it down and have it destroyed.

Senator KENNEDY. Did he ever tell you why?

Ms. POWELL. Well, I knew why because he told me last October.

Senator KENNEDY. Pardon?

Ms. POWELL. I know exactly why because in October he had indicated he was going to destroy it.

Senator KENNEDY. Because the companies had asked to have them destroyed?

Ms. POWELL. Yes.

Senator KENNEDY. Did that come as any surprise to you or any—

Ms. POWELL. Not really, no.

Senator KENNEDY. Did he ever talk about the Office of Economics in the context of destructing?

Did he ever say, as Mr. Pavetto mentioned earlier, that they were on his back and he was going to destroy these?

Ms. POWELL. I heard that but I knew it was a joke.

It was a joke, so I really paid no attention, but I did hear it.

Senator KENNEDY. You heard what?

Ms. POWELL. Oh, I heard him say something about maybe we should destroy the papers now to get Economics off our backs jokingly, but that was about all. I knew we were going to destroy it anyway.

Senator KENNEDY. The last time you saw corrections being made, what happened to the work papers and documents?

Ms. POWELL. Well, when Economics called, the work was given to Carl, so I do not really know that much about it.

Senator KENNEDY. Did you help at all in the documents, in preparing the documents at all?

Ms. POWELL. Yes.

Senator KENNEDY. Would you tell us about it?

Ms. POWELL. From October to about December I was logging in and compositing the figures from the companies letters but as far as Economics, I did not do any of that

Senator KENNEDY. Well, did you help with the corrections?

Ms. POWELL. No.

Senator KENNEDY. Were you there when they picked up the documents to be destroyed?

Ms. POWELL. Yes.

Senator KENNEDY. Could you tell us about that?

Ms. POWELL. Mr. Mangen came around to me and asked me if I had anything relating to the R-405, like workpapers or letters.

Senator KENNEDY. Any what?

Ms. POWELL. Anything relating to the R-405, because he was going to take it down and have it destroyed.

Senator KENNEDY. Do you remember when that was?

Ms. POWELL. I thought maybe about the 24th of April or something like that. I do not know exactly.

Senator KENNEDY. Is this about the same time you were making the corrections?

Ms. POWELL. I did not make any corrections.

Senator KENNEDY. Then he took them out of the office?

Ms. POWELL. Yes, he took them out of the office.

Senator KENNEDY. Did you ever see the material again?

Ms. POWELL. No. Oh, yes, after all of this came about, you know, after we were told to put the papers back together again.

Senator KENNEDY. Do what?

Ms. POWELL. That is when I saw them last.

Senator KENNEDY. You helped to put the papers back?

Ms. POWELL. Yes.

Senator KENNEDY. And when was that?

Ms. POWELL. I guess it must have been sometime in May.

Senator KENNEDY. And who was doing that?

Ms. POWELL. Just about the whole section.

Senator KENNEDY. Were only the work papers retrieved initially?

Ms. POWELL. The letters and all of the workpapers.

Senator KENNEDY. And letters also?

Ms. POWELL. Yes.

Senator KENNEDY. At the same time?

Ms. POWELL. On the same day but different time.

Senator KENNEDY. By whom?

Ms. POWELL. Mr. Mangen and Mr. Joyce.

Senator KENNEDY. Do you know why?

Ms. POWELL. Well, it was confidential and we have no place to keep them, so we were going to destroy it.

Senator KENNEDY. I see.

But do you remember why they were retrieved?

Ms. POWELL. Oh, I think Mr. Tom Joyce asked for them.

Senator KENNEDY. Can you tell us, did he ask you or—

Ms. POWELL. He asked Mr. Mangen.

Senator KENNEDY. And you were there, were you?

Ms. POWELL. No. I was told.

Senator KENNEDY. I am just reminded by the staff that in the interview you were talking about the days that the material was being picked up for the destruction. You were asked, "And so it was on the same day that you finished doing the corrections?" And you responded, "Right, the same day."

I am just wondering—

Ms. POWELL. No; Mr. Pavetto was doing corrections but I more or less walked past and noticed him making corrections and I thought we were finished with the project. That is when I found out he was making some corrections. I did not know at first Economics had called about errors.

Senator KENNEDY. So, Mr. Pavetto was doing the corrections?

Ms. POWELL. Yes.

Senator KENNEDY. And it was the same day he was doing them?

Ms. POWELL. Same day, right.

Senator KENNEDY. OK.

Mr. Chumbris?

Mr. CHUMBRIS. I just have one question. I believe you were asked a question in the interview about locking up your desk and so forth.

Ms. POWELL. Yes.

Mr. CHUMBRIS. And as far as you were concerned, you felt they were confidential enough to lock them up every night, is that correct?

Ms. POWELL. Mr. Mangen told me every time I left the office to keep it locked up.

Senator KENNEDY. Well, did you treat these materials any differently than you treat other materials that you were working on?

Ms. POWELL. Yes, because he told me it was confidential, and be sure that I locked it up every time I left the office or my desk.

Senator KENNEDY. Who told you that?

Ms. POWELL. Mr. Mangen.

Senator KENNEDY. Do you have a safe in the office?

Ms. POWELL. No. I can lock my desk with a key.

Senator KENNEDY. Thank you very much.

Mr. Albares.

Mr. Albares, do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

STATEMENT OF EDWARD ALBARES, SECTION CHIEF, BUREAU OF NATURAL GAS, FEDERAL POWER COMMISSION, ACCOMPANIED BY DOLPH DAVID SAND, COUNSEL

Mr. ALBARES. I do.

Senator KENNEDY. Now, I understand that Mr. Mangen is under your supervision.

Is that correct?

Mr. ALBARES. Yes, sir. That is correct. He is my assistant.

Senator KENNEDY. Before the R-405 update documents were taken for destruction by Mr. Mangen, were you aware of his intention to have them destroyed?

Mr. ALBARES. Excuse me. I missed the earlier part.

Senator KENNEDY. Were you aware of the intention to have them destroyed before they were actually taken for destruction by Mr. Mangen?

Mr. ALBARES. Yes. In fact, we discussed it.

Senator KENNEDY. All right.

Well, could you recite to the best of your recollection then the nature of the discussion and the circumstances around your becoming aware of Mr. Mangen's intentions?

Mr. ALBARES. I do not remember the dates, Senator, but I remember we had a discussion of it, and I indicated to Mr. Mangen that we had a security officer now assigned to the Commission because in AR 69-1, in the destruction of those work papers, I witnessed the burning of them in the trash basket. So, I told him that under the procedure we have now, that we have a security officer who would certify that the records were destroyed.

Senator KENNEDY. These other records—in the AR 69-1—they were destroyed?

Mr. ALBARES. Yes, sir. I should say the papers were. The information, Senator, was brought in by the respondent companies. The data was extracted from those papers by Mr. Mangen in this particular case, and then they were returned to the respondent companies.

Now, the work papers that he compiled from these submissions were burned; yes.

Senator KENNEDY. And you know that of your own personal knowledge?

Mr. ALBARES. I witnessed the burning of them; yes, sir.

Senator KENNEDY. And why were they burned?

Mr. ALBARES. This was one of the conditions of the prehearing technical conference in acquiring this information. This was the first time, Senator, we had ever had an opportunity to gather reserve data, the first time in the Commission, from what I have been able to determine, we have ever secured any information from the producers with regard to reserves. This was kind of the start of the whole process. We prepared a form, as I recall, and I am reciting this from memory. I do not remember the exact date, and we submitted it through counsel. We ran into a lot of flack in the prehearing technical conference in trying to get this particular form through. A compromise was worked out similar to what is in existence now in the present form. The producers were very strongly opposed to giving any information, and like I say, this was, in this particular procedure, AR 69-1, we felt this was vital information in preparing our case with regards to the south Louisiana area rate proceeding.

Senator KENNEDY. Well, the Commission certainly has the authority to get that information.

Mr. ALBARES. Prior to that I was not sure, Senator, whether we did or not, but in this proceeding we decided to try it and succeeded.

Senator KENNEDY. Well, the act says, "the Commission shall at all times have access to and the right to inspect, and examine accounts, records, memoranda of natural gas companies."

Mr. ALBARES. Yes, sir. But most of that information, and the legal people can correct this I think a little later on, as I interpret it, and from what I was advised pertained to the pipeline companies, now this information we are talking about here in AR 69-1 was obtained from the producers, which as I indicated, we had never obtained any information of this nature from them before.

Senator KENNEDY. Well, it does not say anything about the pipeline companies in the legislation. It just says natural gas companies.

Mr. ALBARES. Well, our authority applies only to interstate commerce, so I am told.

Senator KENNEDY. Were the AR 69-1 documents put into a burn bag and taken to the incinerator?

Mr. ALBARES. No, sir. The staff workpapers were burned in the wastebasket right in my presence in Mr. Mangen's office.

Senator KENNEDY. Who else was there at the time?

Mr. ALBARES. I do not recall any other one, any other person. There may have been some other person, but I am not aware of it.

Senator KENNEDY. Were you told when Mangen took the other papers for destruction?

Mr. ALBARES. Which ones are those now, sir?

Senator KENNEDY. The update, 405 update?

Mr. ALBARES. Was I told?

Senator KENNEDY. Yes. Did he tell you he was taking them down to destroy them?

Mr. ALBARES. I do not think he told me this specific instance, but he told me he was planning on doing this, yes.

Senator KENNEDY. So, what did you tell him?

Mr. ALBARES. This is when I suggested to him that we had a security officer, and to check with Mr. Vivian, that he was the security officer and he would be the proper party for the destruction of any records.

Senator KENNEDY. Was Mr. Vivian the only person you told him to check with?

Mr. ALBARES. I also, I think, recall that I also told him to check with Mr. Joyce.

Senator KENNEDY. Why did you tell him to check with Mr. Joyce?

Mr. ALBARES. Well, he was working with Mr. Joyce on this project. Since he was the designated investigating officer in this particular proceeding, we considered him on special assignment, and even though he was subject to my jurisdiction, he was still subject to the actions of Mr. Joyce more so than I in this particular matter.

Senator KENNEDY. Well, why would he have to check with him, then?

Mr. ALBARES. Well, he is our boss.

Senator KENNEDY. Mr. Joyce?

Mr. ALBARES. Yes.

Senator KENNEDY. And did he say or indicate whether he would check with Mr. Joyce or not?

Mr. ALBARES. I do not recall whether he did or not.

Senator KENNEDY. Did he check?

Mr. ALBARES. The problem was, Senator, we had so many things up in the air at that time that some of these details are a little fuzzy at times, and we had so many projects underway.

Senator KENNEDY. Does not the order in 405 require that the documents be maintained at the FPC?

That is what Mr. Maxson said yesterday.

Mr. ALBARES. The order, the update order you mean?

Senator KENNEDY. Yes.

Mr. ALBARES. The update order is very similar. I think the words "maintained" and "kept" are the only change, only those two words that I recall in reading the order, different from the original order in 405 I am talking about, and in that proceeding the same thing as in the AR 69-1, the information was retrieved from the companies, the companies brought the data in, a worksheet was prepared and the information was returned to the companies.

What has happened to the worksheets. I do not know, Senator, for the first R-405.

Senator KENNEDY. Were there other instances involving destroying or returning documents to companies that you know about?

Mr. ALBARES. In those proceedings you mean?

Senator KENNEDY. No, just since you have been in the Commission.

Mr. ALBARES. There is no other specific one I can recall right now.

Senator KENNEDY. The only two then that you know about are the 69 and the 405?

Mr. ALBARES. Right.

Senator KENNEDY. Those are the only two occasions that you know where materials have been—

Mr. ALBARES. Yes, sir. There may have been others, Senator, but since I was not involved, I do not know of them, or I am not aware of them.

Senator KENNEDY. Is it your feeling that when the materials were destroyed in the 69-1 that you were following procedures which were acceptable to the Commission itself?

Mr. ALBARES. Yes. We, Senator Kennedy, prepared a memo to this effect and sent it to our legal counsel in this particular proceeding, Mr. Stephen Wakefield, and Mr. Mattingly was our legal representative in this particular case, and a memo was prepared outlining procedure, and, in fact, we were requested to prepare such a memo by our legal counsel to outline this procedure, which was done, I think, in late June of 1970, and I think this has been submitted.

Senator KENNEDY. Yes, that was put in yesterday.

Mr. ALBARES. And this was—

Senator KENNEDY. Whom did you send that to?

Mr. ALBARES. I sent it to Mr. Wakefield.

Senator KENNEDY. Anybody else?

Mr. ALBARES. We sent carbon copies to the general counsel.

Senator KENNEDY. Well, I think it says—

Mr. ALBARES. It is self-explanatory.

Senator KENNEDY. To the Commission members?

Mr. ALBARES. No. Now, this is a different one I am referring to, Senator.

Senator KENNEDY. Well, have you got a copy?

Mr. ALBARES. This is the earlier one, prior to that.

Senator KENNEDY. Well, we will put that in the record.

[The document referred to follows. Testimony resumes on p. 964.]

JUNE 29, 1970.

STEPHEN WAKEFIELD,
Head, Gas Supply Section.

Proposed Audit Procedures, Producer Gas Reserves—AR 69-1, Southern Louisiana.

We propose to allocate the time allowed for the audit by company on the basis of percent reserves held of total reserves reported by Auten. These reserve figures will be the sum of the 1969 onshore and offshore figures. All companies having reserves will be visited.

We will request that the companies have the following material ready when the audit team comes to their offices:

(1) The "Auten" questionnaire.
(2) A list of reservoirs backing up the "Auten" questionnaire by size of reservoir.

(3) The data from which the reservoir reserve estimates were made.

The audit team will verify that the reservoirs on the list do add up to the number reported to Auten. The audit team will then select the reservoirs in the company office from the list based on the distribution by size on the list and the amount of time allotted to the company.

The audit team will check the reservoirs and record the company figure and the staff figure from the sample reservoirs examined and total them for all reservoirs checked. These figures will be telephoned in the company office in the presence of company personnel to Mr. Lawrence R. Mangen in Washington, D.C.

who will composite the figures. Only Mr. Mangen will have access to the reservoir estimates by individual producers as reported by the audit team. Immediately after reporting these audit figures, the audit team will destroy their individual company records.

As the data comes in, a running total of the company and staff figures will be kept with individual company and staff figures being destroyed as soon as they are added into the composite. The composite figure will be reported as part of Mr. Mangen's testimony when he discusses all the audit procedures, i.e. the staff results in approximately the following manner—the staff examined x percent of the 1969 "Available for sale" reserves reported by Auten and found an overall difference of y percent which is (or is not) considered within the limits of accuracy of such estimates.

EDWARD A. ALBARES.

Senator KENNEDY. But what is the relevant reference there?

Mr. ALBARES. Let me give you a date. This is the one dated June 29, 1970, addressed from me to Mr. Stephen Wakefield entitled, "Proposed Audit, Producer Gas Reserve, AR 69-1, South Louisiana."

Senator KENNEDY. And that says on page 2, "the audit team will destroy their"—

Mr. ALBARES. Right.

Senator KENNEDY. So, you did not receive any countermandate?

Mr. ALBARES. No, sir. This, I might mention, came out of a procedural dispute we had, Senator, in Houston, in collecting this data. We had one particular company who came in, and they balked at giving us or letting us copy the company name, plus a figure, and he indicated that he did not think the order provided that we could take the company's name down, that all we were entitled to was the figure itself. We entered into a disagreement with our general counsel, Mr. Wakefield, who was in attendance at this particular session. We had a discussion among ourselves and could not reach an agreement, so we called back to Washington to get this matter settled. So, on returning to Washington Mr. Wakefield asked me to prepare this memo to outline the procedures so that we would have something definitely and finite to follow in this proceeding and future ones.

Senator KENNEDY. Well, for the moment, going to the 405 update, were you aware of any instructions, or guidelines, or directions given to Mr. Mangen by anyone else in the Commission relating to the retention or destruction of those documents?

Mr. ALBARES. No, sir.

Senator KENNEDY. Under the new guidelines, what are you supposed to do with the documents at the present time?

Mr. ALBARES. Since the Chairman's memo of June 29, we keep everything, now, Senator, and lock it up.

Senator KENNEDY. Did you represent at any time to any of the company officials whether the documents supplied by the companies themselves with reference to 405 would actually be destroyed?

Mr. ALBARES. Did I what? Excuse me.

Senator KENNEDY. Did you give any assurances to the company officials that you were going to supply materials under the 405 update, that the material they provided you would be destroyed?

Mr. ALBARES. I do not think—

Senator KENNEDY. Did you make any representations, did you discuss the subject?

Mr. ALBARES. I do not recall, but in the prehearing technical conference with the companies, this was made known to them at the time, Senator, in the prehearing technical conference where the pipeline representatives, ourselves, people from staff, our legal representatives from the Office of General Counsel, and the producer representatives, the distributor representatives, some of the public representatives were all present where all of this was discussed openly and debated.

Senator KENNEDY. And what conclusions were reached?

Mr. ALBARES. That we would either return the information to the companies or destroy it.

Senator KENNEDY. Have you formed any impression whether Mr. Mangen was guilty of any wrongdoing?

Mr. ALBARES. No.

Senator KENNEDY. You have not formed an impression?

Mr. ALBARES. No.

I am—I have formed an impression. I do not think he is guilty with what he is being charged, and as to his workload, Senator, I can tell you that it has increased. We do not treat him any differently, and with our workload in the section increasing, he has shared in that responsibility, and we do not treat him any different than how he was prior to this action. He is a very valuable man to us.

Senator KENNEDY. Why do you not think what he did was wrong?

Mr. ALBARES. Well, we were following a precedent that was set, as you indicated, in AR 69-1. A similar situation occurred with the first R-405 and in the discussions we have had off and on prior to that issuance of the R-405, the question always arose whether we would do it the same way as we had done it in the past, and the standard answer I got was it is exactly the same way other than those few changes as shown in the order, as defined in the order.

Senator KENNEDY. Thank you very much.

Mr. Chumbris?

Mr. CHUMBRIS. Mr. Albares, you mentioned the same thing was done in the original 405?

Mr. ALBARES. Yes, sir.

Mr. CHUMBRIS. Now, somewhere in the about 1,500 pages of transcript that we have of the tapes that were taken in interviews, there was a reference to the fact that in one of the precedents that was set for destroying the confidential documents, there was something either in the Commissioners' decision in that case, and if I have not put it correctly, if you are aware of it, or if the succeeding witnesses have knowledge of it, I think we would like to have it for the record.

Mr. ALBARES. I think what you are asking, if I may answer that, sir, I think what you are referring to is in the hearing itself in AR 69-1, in Mr. Mangen's testimony, and Mr. Zabel's testimony on the public record, subject to cross examination and review by everyone present. This point was very vividly pointed out, I mean, that the record would be destroyed and sent back to the companies. That is correct, sir. So, this is the precedent for it.

Mr. CHUMBRIS. Yes. We do not have it in our file.

Mr. ALBARES. I will be happy—

Mr. CHUMBRIS. I will put the responsibility on the Executive Director to see if we could not get that for the record, the particular hearing that Mr. Albares just mentioned where it was examined, the issue was raised during that particular public hearing, and the issue was made public.

Mr. ALBARES. I think, if you like, sir, I can give you a couple of copies now.

Mr. CHUMBRIS. Well, we would like to have it.

That is all, Mr. Chairman.

Senator KENNEDY. And we will make those relevant parts part of the record.

[The information referred to follows. Testimony resumes on p. 970.]

**FEDERAL POWER COMMISSION, BUREAU OF NATURAL GAS, STAFF FIELD AUDIT
OF REPORTED UNCOMMITTED RESERVES**

**TESTIMONY OF VICTOR H. ZABEL, DOCKET NO. AR69-1, AREA RATE PROCEEDING,
SOUTHERN LOUISIANA AREA, WASHINGTON, D.C., OCTOBER 1970**

Q. Are you the same Victor H. Zabel who has previously submitted testimony in this proceeding at pages 1851 to 1867?

A. Yes.

Q. What was your assignment in regard to the audit by staff of the uncommitted gas reserve estimates filed by the companies with Arthur Young & Company in response to the Commission Order of March 17, 1970 in this proceeding?

A. My assignment was to supervise an auditing team which was to examine the data underlying the uncommitted reserves estimates to determine the arithmetic accuracy and compliance with instructions by the individual companies filing and to analyze a statistical sample of the gas reserve estimates.

Q. Will you describe the methods used by the staff to make this audit?

A. Staff witness Mangen has described the development of the sampling procedures used and the results of the staff audit. In the actual auditing process Mr. Mangen informed the companies to be audited of the approximate date on which the audit was to be made and of the materials and records that would be required. The audit team contacted each company a day or two in advance of the audit.

Q. What was the first step upon arriving in the company's office?

A. The first step was to request the company's copy of the filing made with Arthur Young & Co. together with a listing of the reserves which went into the filing. The audit team then checked the addition of the reserves to verify the arithmetic and the compliance with the instructions for the filing.

Q. Were any errors in arithmetic or in compliance found?

A. Yes. We discovered some errors in both respects.

Q. What was done to correct these errors?

A. The company was advised to file a revised report with Arthur Young & Co. with a copy to Mr. Mangen.

Q. What was the next procedure?

A. All the company's reservoirs were listed in the order of the size of the gas reserves estimated by the company. The reservoirs to be analyzed in detail were then selected in accordance with the sampling technique outlined by Mr. Mangen.

Q. In the detailed analysis of the reservoirs what data were made available by the companies?

A. The companies made available electric and other type logs, core analyses, formation tests, shut-in and flowing pressure tests, structure maps, isopachus maps, directional surveys, daily drilling records and other data. They also made available their work papers showing the reservoir factors and calculations used to derive their estimates of the gas reserves in the reservoirs.

Q. Did the audit team accept for its own use the reservoir factors used by the company?

A. If a factor was based on a measured test, or other direct evidence, it was accepted for use by the audit team. However, in most of the analyses the audit team derived independent factors.

Q. How were these factors used?

A. They were used in a standard formula to determine the recoverable reserves in the reservoir being studied. The audit team did not simply review the company's reserves estimates but made its own reserve estimates starting with the basic reservoir factors.

Q. What was done next?

A. A tabulation was made of the reservoirs analyzed showing the reserves as estimated by the company and the reserves as estimated by the staff audit team. The two columns of reserves were then added. Mr. Mangen was then called on the Federal Telecommunications System line and given the total reserves of the sample as estimated by the company and the total reserves as estimated by the staff audit team. This call completed the staff audit of the company.

Q. After completing the audit did the staff audit team retain its notes and calculations?

A. No. The notes and calculations were either left with the company or destroyed in the presence of company representatives.

Q. During the process of analyzing the sample reservoirs, did the staff audit teams make any investigation to determine the presence of unreported gas reserves?

A. Yes. The logs, maps, and other records furnished by the company for analysis of a selected reservoir were examined to determine whether any other reservoirs in the same well or field contained gas reserves that were not reported.

Q. Were any unreported reservoirs noted in the sampled area?

A. No.

Q. Does this conclude your testimony?

A. Yes.

TESTIMONY OF LAWRENCE R. MANGEN, DOCKET NO. AR69-1 ET AL., AREA RATE PROCEEDINGS, ET AL. (SOUTHERN LOUISIANA), WASHINGTON, D.C. OCTOBER 1970

Q. Please state your name, by whom you are employed, and your position?

A. My name is Lawrence R. Mangen. I am employed by the Federal Power Commission in the Bureau of Natural Gas as a supervising natural gas engineer.

Q. Briefly outline your educational and professional background?

A. I received a B.S. degree in Engineering at the University of Minnesota in 1955 and a M.S. degree in Geology in 1957 at the University of Minnesota. Upon graduation I was employed by Shell Oil Company as a junior engineer, field engineer, workover engineer and production geologist. Since 1962 I have been employed with the FPC. I am currently Assistant Section Head, Gas Supply Section and I am also team leader of the National Supply Team of the Gas Supply Section of the Analysis and Procedures Division of the Bureau of Natural Gas.

Q. Are you a member of any professional societies?

A. I am a member of the society of Petroleum Engineers of AIME, a fellow of the American Association for the Advancement of Science, and a registered professional engineer.

Q. Have you previously testified in any hearings?

A. Yes, I have testified before the Texas Railroad Commission, primarily on productive acreage hearings, and before the Federal Power Commission in two prior area rate proceedings, Docket Nos. AR 61-2, (South Louisiana Area) and AR 67-1 (Other Southwest Area).

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to describe and explain the procedures used by the Commission staff in auditing the uncommitted reserve figures reported by the producers in this proceeding.

The Commission by its order of March 17, 1970 required producers to report certain reserve data by separate questionnaires for the Onshore and Offshore Areas in Southern Louisiana. The data were to be reported as of year-end 1968 and year-end 1969. Volumes of reserves available for sale and reserves held for fulfillment of warranty gas sales contract were to be reported for the Onshore Area. In addition to the reporting of volumes of warranty gas and gas available for sale in the Offshore Area, the Commission required the reporting of volumes of gas reserves committed to direct industrial contracts and the reserves held for company use and fuel or feedstock but not subject to specific contract arrangements. The completed questionnaires were forwarded by each responding producer to the Tulsa, Oklahoma office of Arthur Young & Co. Donald W. Auten,

a certified public accountant with that firm, composited the data and presented it in this proceeding as Exhibit No. 27. That exhibit has been a public record since May 26, 1970.

Q. Were the volumes reported by each individual respondent made public?

A. No. Under the Commission order, the individual company responses were to be treated as confidential information without public disclosure. However, that order also provided that the individual reports and data underlying such reports should be made available to the Commission staff upon request.

Q. Was a request for such an audit made?

A. Yes, it was made and an audit was performed.

Q. How was the audit performed?

A. The first step in the audit was to review all the individual company filings in order to verify the totals of the volumes composited by Mr. Auten in Exhibit No. 27. In order to maintain confidentiality I was selected as the only person who would see these filings.

Q. How was this done?

A. Each company could choose to mail or personally deliver its filing to me at the Commission. Those not wishing to come to Washington had the opportunity to show their filing to me at the Federal Building in Houston, Texas on June 17, 1970. I then recorded the volumes of uncommitted reserves which each company had reported; stamped, dated, and initialed the individual filing; and returned it to the company.

Q. How did you determine whether these were the same filings that were used by Mr. Auten in compiling his composite for Exhibit No. 27?

A. Mr. Auten had marked each one with his initials and the word, "Composited."

Q. Why did you stamp, date and initial each filing?

A. First, I wanted to insure that I did not record the same information twice. Second, by marking each filing, the Staff member who would later be performing the audit of the company's reserves at its office would be assured that he was reviewing the same figures which I had earlier reviewed.

Q. How did you record the data from the individual filings?

A. I copied each of the volumes of reserves reported by every individual producer and composited these figures to arrive at the total volumes under each category.

Q. Were the composited totals of the individual filings which you reviewed identical to the final totals submitted by Mr. Auten in his revised Exhibit No. 27-A?

A. There were a few variations primarily because several producers revised their filings and the final submission made to Mr. Auten may have differed slightly from the submission which I included in my composite. However, as the following table shows, any variance was of such slight magnitude as to have negligible effect on the outcome.

[In thousand cubic feet manufactured at 14.73]

	As of Dec. 31	Exhibit No. 27-A	Staff	Difference	Percent
Onshore:					
Company use—Warranty gas.....	1968	2,598,749,372	2,437,483,724	-161,265,648	.62
Do.....	1969	1,954,232,242	1,840,610,239	-113,622,003	5.8
Available for sale.....	1968	1,269,943,375	1,268,833,375	-1,110,000	.1
Do.....	1969	1,508,980,877	1,505,861,614	-3,119,263	.2
Offshore:					
Direct individual contracts.....	1968	1,466,491,000	1,466,491,000	0	0
Do.....	1969	1,405,614,000	1,405,614,000	0	0
Company use—Warranty gas.....	1968	1,361,717,904	1,334,997,754	-26,720,150	2.0
Do.....	1969	1,812,212,673	1,777,365,960	-34,846,713	1.9
Company use—F. & F.....	1968	917,944,391	897,955,088	-19,989,303	2.2
Do.....	1969	962,372,648	944,041,574	-18,331,074	1.9
Available for sale.....	1968	3,307,456,660	3,300,572,756	-6,883,904	.2
Do.....	1969	1,094,606,960	1,100,846,423	+6,239,463	.6

Q. After verifying the individual components of the Auten composite, did you proceed to audit the data underlying the uncommitted reserves volumes as submitted by each producer?

A. Yes, I arranged to have members of the staff visit each company that reported having any uncommitted reserves in Southern Louisiana.

Q. Did the staff review the underlying data for every reservoir comprising the reported uncommitted reserves in Southern Louisiana?

A. No. In addition to the time limitations placed upon the staff by the necessity to complete the audit and submit the results in this proceeding, I concluded that a representative sample of the reservoirs involved would serve as an adequate basis for auditing the reported data.

Q. How did you select the sample of reservoirs that would be audited at each company's office?

A. I determined the percentage of the total reported "Available for sale" reserves which each company held as of December 13, 1969. This percentage was then applied to the total number of man-hours available for performing the audit to determine the approximate time which the auditing team would spend at each company. For example, if a company reported uncommitted reserves which equalled five percent of the total reported by all producers, then I would calculate five percent of the available man-hours and instruct the auditing team that they were to spend that amount of time at that company. The auditing team was further instructed as to the selection of the reservoirs they were to check.

Q. How was this selection to be made?

A. An instruction sheet was furnished to those who would be performing the field audits. In addition to setting forth the sampling procedures, these instructions sought to insure uniformity of examination and confidentiality of the reserves held by each producer. These instructions were as follows:

"The following instructions are to be followed exactly:

"1. The companies are assigned based on attached list (Appendix A)

"2. You are to notify company representative 1 day prior to visit (Listed in Appendix B)

"3. The company is to show you:

"(a) An A and/B sheet with the total company reserve estimate sent into Auten. It should have Auten's initials and the word composited on it. In addition there will be an FPC Gas Supply Stamp on the sheets.

"(b) A list of the reservoirs by size.

"4. You will add up the reservoir volumes and check against the "Auten" sheets to make sure the numbers match.

"5. Select reservoirs (1969) (onshore plus offshore) from the reservoir-by-size list on the following basis:

"(a) Assuming an average of 4 hours per reservoir audit.

"(b) Check Appendix A list to see how long you are to stay with company and choose appropriate number of reservoirs to check.

"(c) Select the reservoirs on the following basis:

"(1) Using the distribution breakdown below select the reservoirs to be checked (the total to be checked already determined by size of company reserves) based on the distribution of the company's reservoirs in the various size categories.

"SIZE DISTRIBUTION

0 to 5 billion (small)

80 to 100 billion

5 to 40 billion

100 and over (large)

40 to 80 billion

"(2) Make the selection proportioned to the numbers of reservoirs in each group. Do all large reservoirs.

"(3) Check at least one reservoir in the warranty category if the company has warranty reserves reported.

"6. While the reservoirs are being checked, make a list of the company estimate and the staff estimate and when all reservoirs from the company have been checked, total these estimates and report these total staff and company estimates sampled to Mr. Lawrence R. Mangen, 386-6172 or 386-4855 in Washington, D.C. for compositing.

"7. Under no circumstances will any data be taken from company offices.

"8. All workpapers will be destroyed after data is reported to Mr. Mangen."

Q. How did you calculate the results of the field audits as reported to you by telephone?

A. I recorded the volume of reserves under each category which the staff auditing team reviewed at the office of each producer, first listing the estimate of these reserves by that producer and then listing the staff's estimate of the same reserves. When the audit was concluded, I composited all estimates under each category. I was then able to determine the percentage of the total reported volumes we had checked and for the reserves audited, determine the variance between the estimate of the producer and that of the staff.

Q. Who actually performed the audits at the companies' offices?

A. The audit was performed by staff members expert in reserve analysis with Mr. Victor H. Zabel in charge of the field operations. Mr. Zabel's testimony on this subject describes the performance of the audit.

Q. When was the staff audit completed?

A. August 18, 1970.

Q. What were the results of the audit?

A. The staff examined approximately 33 percent of the reserves reported to be "available for sale" as of December 31, 1969. The staff estimated those reserves audited to be approximately 2 percent less than the companies had estimated.

In approximately 50 percent of the reservoirs examined, the staff and producer estimates were within + or - 10 percent, which is well within the variation usually found between independent reserve estimates. An additional 27 percent for a total of 77 percent were found to be within + or - 20 percent which is still not unreasonable. The remaining staff estimates which varied more than 20 percent from the producer estimates were extremely small reservoirs and accounted for only 0.01 percent of the total volume of reserves examined.

Q. What about the other reserve categories?

A. Of course, we were primarily interested in the above category. However, the staff also examined 1 percent of the "Warranty" reserves with a difference between staff and company of about 5 percent of those checked.

In those cases where there was a significant difference between 1968 and 1969 reserves, 1968 reserves were examined also, if time permitted. Less than 1 percent of these reserves were examined with a difference of about 20 percent on those reserves checked.

Q. What check was made of those companies which filed a completed questionnaire with Arthur Young & Co. but reported they had no uncommitted reserves?

A. The staff searched the records of United States Geological Survey and Louisiana Department of Conservation well data collected by the Federal Power Commission for all companies which had filed reports with those agencies of discovery gas wells completed since 1960. The purpose of this search was to determine if any company which had not reported any uncommitted reserves had completed a discovery gas well in Southern Louisiana in the past ten years.

This list was then cross-checked against reports and documents of the Louisiana Department of Conservation to determine the present status of these discovery gas wells.

Q. What was the result of this investigation?

A. We were unable to find any discovery wells for which the gas was neither committed nor covered by the uncommitted reserves questionnaires filed with Arthur Young & Co. In other words, our search did not turn up any uncommitted gas reserves which were not reported on the questionnaires.

Q. What is your opinion of the staff audit?

A. The staff spent 99 man-days and over \$3,300 auditing reserves and 18 man-days and \$200 investigating the companies which did not report any reserves on their questionnaire for a total of 117 man-days and over \$3,500. This does not include any estimate of salaries spent. In my opinion the staff audit was fully adequate and confirmed that the volumes reported by the producers pursuant to the questionnaire were reasonably estimated and provide a reliable measure of the volumes of gas available for sale in the Southern Louisiana area as of December 31, 1969.

Q. Does this complete your testimony?

A. Yes.

Senator KENNEDY. Let me ask a final question.

Mr. ALBARES. I do not have the particular page number, but the records will speak for themselves.

Senator KENNEDY. Was Joyce present at any meeting when you and Mangen discussed the destruction or return of the materials?

Mr. ALBARES. Yes, sir, and I think Mr. George Lewnes of our Office of General Counsel, plus there were many people at these discussions, earlier discussions, I should say, Senator, and most of them were made in—mine were made, I should say, in the presence of Mr. Joyce, yes.

Senator KENNEDY. You mean he was there then when Mangen indicated to you that he was going to destroy the materials?

Mr. ALBARES. I do not—I think—was he in the room, you mean? No, sir, he was not. He was not physically present.

Senator KENNEDY. Did you ever talk to Mr. Joyce about Mr. Mangen's conversations with you that he was going to destroy the material?

Mr. ALBARES. I do not recall it, no, sir.

The point, the point was that in earlier discussions long before this and, in fact, in the preceding year when all of this was being formulated, the point was always made of how will we treat this, will we do this exactly as it was done before, and the answer I got was always yes.

Senator KENNEDY. Who would those conversations be between?

Mr. ALBARES. Well, in the presence of Mr. Joyce and somebody, some of the Office of the General Counsel people.

Senator KENNEDY. Were you referring to the destruction of materials or the returning of materials?

Mr. ALBARES. Not per se, no, sir.

Senator KENNEDY. Well, then, why—

Mr. ALBARES. Not specifically, but what I would want to know is whether we should treat the current R-405 exactly as it had been treated in the past, and that was what I was trying to determine, and I was not told to the contrary.

Senator KENNEDY. And everyone knew they had been destroyed in the past?

Mr. ALBARES. I assume so, yes, sir.

Senator KENNEDY. Okay. Thank you very much.

Mr. Joyce, Thomas Joyce.

Mr. SAND. Thank you, Mr. Chairman.

[The following was subsequently received for the record. Testimony resumes on p. 972.]

FEDERAL POWER COMMISSION,
Washington, D.C., August 8, 1973.

MR. CHARLES BANGERT,

*Majority Counsel, Senate Committee on Antitrust and Monopoly,
Washington, D.C.*

DEAR MR. BANGERT: During the subcommittee's staff interview of August 6, 1973, I was asked to submit the following data and information.

1. A copy of the Reserve Estimation Manual used by the reserve teams in the field, which is attached.

2. A copy of the professional code of conduct used by the reserve field teams (Page 14, Reserve Estimation Manual).

3. How was the reserve information compiled by the field teams in AR69-1 transmitted to the Washington office? (By telephone, Page 10 of the testimony of Mr. Lawrence R. Mangen in Docket No. AR69-1).

4. A copy of Mr. Lawrence R. Mangen's testimony in Docket No. AR69-1 (attached).

5. What was the basis for destroying the work papers in AR69-1?

The transcript of the hearing on AR69-1 gives more information on the confidential aspects of the data gathered and the legal interpretation placed on the Commission's order as to the destruction of the work papers (beginning on Pages 5430-35, Volume No. 42, dated Wed. October 14, 1970).

The procedural aspects developed to be used in AR69-1 was formulated through legal interpretation of what was its intent, the Notice to all parties dated June 3, 1970, some disagreements between staff's followed by approval by legal counsel of proposed audit procedures prepared by staff. The following outline briefly gives the major points.

After the Commission Order AR69-1 for uncommitted proved reserves was issued by the Commission on March 17, 1970, a letter was written on June 3, 1970, by Stephen A. Wakefield of the Office of General Counsel, FPC, to the respondents to initiate the staff audit of the figures (copy attached). It was necessary to contact the companies for review of the data sheets because the accounting firm of Arthur Young after compositing the data returned the company reports to the companies.

The letter set up an appointment in Houston, Texas, to meet with the companies to extract the data from the forms.

At the meeting in Houston with staff members Stephen A. Wakefield, Edward A. Albares, and Lawrence R. Mangen representing the Commission, the data was extracted by Mr. Mangen in a room with only the company representative and Mr. Mangen present. Mr. Wakefield and Mr. Albares waited outside. One major company balked at the procedures both for extracting the data and the proposed field audit and composite report; they did not want any individual data identified by company.

A difference of opinion ensued between the technical staff and the legal staff as to the procedures to be followed. A telephone call was made to Washington to resolve this difference and after a lengthy discussion a compromise procedure was used which included the temporary development of a coding system for individual company names to protect their identity. After this matter was resolved, Mr. Mangen then continued to extract data from those companies in Houston that had carried their information to him.

The remaining companies filed their forms by mail or in person in Washington, D.C. FPC offices. These forms were returned directly to the company representative or were mailed to the respondents supplying them.

Upon return to Washington, Mr. Wakefield directed Mr. Albares and Mr. Mangen to prepare a memorandum for him outlining the procedures agreed upon to be used for the audit. Mr. Mangen prepared such a memorandum for Mr. Albares' signature and it was sent to Mr. Wakefield on June 29, 1970, for his approval (copy attached).

Mr. Wakefield gave verbal approval to Mr. Mangen and the procedures outlined in the memorandum were followed rigorously by the staff involved in the audit.

Sincerely yours,

EDWARD A. ALBARES,
Head, Gas Supply and Production Section.

Senator KENNEDY. Mr. Joyce, do you swear that the testimony you are going to give is the whole truth and nothing but the truth, so help you God?

TESTIMONY OF THOMAS JOYCE, FORMER CHIEF, BUREAU OF NATURAL GAS, FEDERAL POWER COMMISSION

Mr. JOYCE. I do.

Senator KENNEDY. Could you tell us briefly about your tenure and responsibility at the FPC?

Mr. JOYCE. I was appointed as Chief of the Bureau of Natural Gas, I believe, on December 16, 1969, and I served until September 1, 1973. And during that time I fulfilled the job of the Chief of the Bureau of Natural Gas.

Senator KENNEDY. Would you tell us why you left the Commission?

Mr. JOYCE. Well, of course, this is a problem that faces anybody that has a limited appointment, that you always face the possibility of making a decision to leave sometime. I have spent almost 4 years in a very taxing job, and I was seeking something that would be somewhat less taxing on my time, and on myself and my family's time.

Senator KENNEDY. Could you tell us what you know about the practices for the disposing or destroying or returning of material that was made available to the Commission from various oil companies; what practices were in effect when you first came to the Commission, and did that alter or change while you were there?

Mr. JOYCE. Well, there were some additional practices that because of the difference in cases did arise, but it was my understanding that when I came there, that much of the information that was required in the evaluation of certificate applications to the Commission was confidential material, and was reviewed by the staff, and then was returned to the company for keeping, and subsequent recall if such became necessary in any case.

In addition to that, there were a number of orders issued, of course, that dealt with the handling of materials, for specific handling of materials, and the docket R-405 was among those, the reserve information, the national gas survey gathering of data and the way in which that material would be handled. And I think there were some other orders in which the procedures were specifically spelled out.

Senator KENNEDY. Well, did you understand that there was also the possibility of destroying as well as returning materials?

Mr. JOYCE. I never really had fixed firmly in my mind that the opportunity for destruction was there. If I did, it had escaped my mind. I was fully aware that documents had been received and returned on occasion, and this was something that I was well aware of, yes.

Senator KENNEDY. Well, did you ever know that the 69-1 worksheets were burned?

Mr. JOYCE. I became aware of that, as I indicated during the interview, sometime this past spring or summer when it was indicated to me by Mr. Maxson that in an interview with Mr. Albares that, Mr. Albares had witnessed the destruction of these documents. If it had occurred prior to that time, I had not—I did not recall it prior to that time.

Senator KENNEDY. You were not aware at any time that you held your responsibilities that materials, other than returned to the companies, were destroyed?

Mr. JOYCE. To the best of my recollection, no. That is what I indicated to your interviewing group, that I just could not remember any specific instances when that would exist.

Senator KENNEDY. Mr. Albares refers to June 29, 1970, memorandum, a copy of which was sent to you.

Mr. JOYCE. Yes.

Senator KENNEDY. That indicated that the audit team will destroy their individual company records, and I believe we had a memorandum yesterday which also had a series of procedures that were followed, and I believe that one of the procedures indicated that the materials could be destroyed?

Mr. JOYCE. I am aware of the earlier memorandum of which I did receive a copy.

I am not aware—I do not know which memorandum the second one you refer to. I was aware of the first one. I was not aware of a specific resolution of that, as I indicated to you, or at least as I can recall until this time in the spring when it was pointed out to me that Mr. Albares had made these statements.

Senator KENNEDY. So, you really had not focused on that particular aspect of the memo yourself?

Mr. JOYCE. No, focused on—

Senator KENNEDY. Well, it did not kind of ring a bell if they said that the audit team will destroy your individual company records?

'That just evidently bypassed you or slipped by or whatever?

Mr. JOYCE. Well, yes. I did not particularly think about it at the time or subsequently.

Senator KENNEDY. Did you ever receive written or oral instructions from Mr. Maxson or Chairman Nassikas or anyone else that the 405 update should be destroyed?

Mr. JOYCE. No, sir, not to my knowledge.

Senator KENNEDY. Did you ever receive oral or written instructions from Maxson or Nassikas or anyone else on Federal Power Commission policy of document retention or destruction?

Mr. JOYCE. Well, the June 29 memorandum, which indicated that all would be retained.

Mr. CHUMBRIS. Could you give the year of the June 29?

Mr. JOYCE. I believe that June 29 is of this year, and that is from my memory with reference to the previous witness. I do not know the specific date myself.

Senator KENNEDY. Well, now, the June 29, 1973, memorandum that was sent by Chairman Nassikas, says, "this memorandum reconfirms instructions previously given to bureau and office heads concerning the safeguarding of confidential material."

You were a bureau head.

Mr. Joyce. Yes.

Senator KENNEDY. Well, he says, "This reconfirms instructions."

Is it your testimony that you never received earlier instructions?

Mr. JOYCE. I cannot recall specific instructions. There may well be something within the administrative manual which I was not aware of.

Senator KENNEDY. But, there weren't any direct instructions that came from the Chairman prior to this June 29, 1973, memorandum that you are aware of?

Mr. JOYCE. To the best of my memory, no.

Senator KENNEDY. As I understand it, even the manual of the general instructions does not cover this?

Mr. JOYCE. I do not know.

Senator KENNEDY. The handling by staff.

Mr. JOYCE. I do not know.

Senator KENNEDY. Are you familiar with the general recordkeeping statute, the responsibilities that I think we read in the record yesterday about the preservation of Governmental documents?

Mr. JOYCE. No, I am not. I believe that some aspects of that were read to me by the staff of the committee, but the general statute itself I am not familiar with or conversant with.

Senator KENNEDY. Did Mr. Mangen ever tell you that he was going to destroy, or he did, in fact, destroy the documents?

Mr. JOYCE. Yes, he did tell me that. He did.

Senator KENNEDY. When was that?

Mr. JOYCE. That was on, I believe, May 21 of this year.

Senator KENNEDY. But not prior to that?

Mr. JOYCE. No.

Senator KENNEDY. Did he ever tell you that he was going to return or that he did, in fact, return documents to the companies?

Mr. JOYCE. Yes. He told me that he had returned documents to some of the companies.

Senator KENNEDY. And that they had already been returned to Humble?

Mr. JOYCE. Humble was one that he mentioned, yes.

Senator KENNEDY. Did you direct him to?

Mr. JOYCE. I did not direct him to return them, no.

Senator KENNEDY. Did you tell him he should not?

Mr. JOYCE. No, I did not tell him he should not.

Senator KENNEDY. Well, did he leave the meeting with the impression that it was permissible to return the documents to the companies?

Mr. JOYCE. Well, I think that would have to be his response as to what impression he left the meeting with.

Senator KENNEDY. Well, as his chief, what impression do you think you conveyed to him? That he should return them, that he was going to return them, return some and not others, or what?

Mr. JOYCE. Well, he had returned some of the documents.

Senator KENNEDY. And so he certainly, from your reaction, was under the impression that he could return others, as you did not say, he had better not return any more, or why are you doing that?

Mr. JOYCE. He may well have come away with that impression.

Senator KENNEDY. Did Mr. Mangen ever tell you that he was going to handle the documents the same way that other similar reserve data was handled?

Mr. JOYCE. Other similar reserve data?

Senator KENNEDY. Yes, earlier surveys.

Mr. JOYCE. Not that I can recall. I do not recall any discussions of the mode of handling of documents.

Senator KENNEDY. What about the meetings with Mr. Albares that he referred to?

Mr. JOYCE. I cannot recall any specific meetings where the handling of these R-405 documents was discussed.

Senator KENNEDY. Well, did they have any general discussion about whether you were going to handle this the same way you handled the other studies of a similar nature?

I mean, was there any conversation along those lines?

Mr. JOYCE. There may well have been. I cannot document in my own mind or recall in my own mind when I met to discuss that, but there may well have been.

Senator KENNEDY. Do you see any difference between whether Mr. Mangen returned the documents or destroyed them?

Mr. JOYCE. Yes.

Senator KENNEDY. Did that really make much of a difference?

Mr. JOYCE. Well, if they are returned they can be recalled, and the Commission, I believe, does also have that power to recall.

Senator KENNEDY. Whose property were these documents?

Were they the companies' property or the FPC's property?

Mr. JOYCE. I am afraid I really could not answer a legal question of that kind. The legal questions were raised this morning in testimony, and I just do not feel qualified at all to answer the question in a legal sense.

Senator KENNEDY. Do you believe it to be fair that Mr. Mangen be disciplined for what he did?

Mr. JOYCE. I feel that if, and I have said this to the staff of the committee, and perhaps others, I think if any mistakes were made in the handling of the documents that they were errors in judgment, that the person, the people involved have learned much from this, and I think that there is, indeed, a time for justice to be tempered with some compassion and consideration. I have always valued Mr. Mangen during my tenure as a valuable employee. I have had the pleasure and opportunity to recommend him for a special award just this year, and I think he was deserving of that. And I think that my own personal opinion would be that if there were any errors committed, that it was just a mistake, and—people, all people can make mistakes—and I think that he should be given every consideration in light of all the facts that are involved.

Senator KENNEDY. What happened to the award, do you know?

Mr. JOYCE. It was held in abeyance, and I do not know the final disposition or whether it has been disposed of.

Senator KENNEDY. What did the Chairman of the Commission tell you about recovering the documents when he found out?

Mr. JOYCE. Recovering of which documents?

Senator KENNEDY. The ones that had been attempted to be destroyed?

Mr. JOYCE. I am not sure. I felt it incumbent upon me—since this was a staff investigation—I felt it incumbent upon me to recover the documents. I am not sure that the Chairman—whether it was he who said I should recover them, or I who said I would, and he concurred that they should be recovered.

Senator KENNEDY. Can you tell us about as much of the circumstances as possible, concerning your learning about the destruction of the documents, and about what steps you took to recover them?

Mr. JOYCE. Yes. And if you will excuse me if the dates are not precise, but I think it was approximately May 21 when a letter was received from Senator Hart requesting some information which involved, among other things, information on uncommitted reserves. The Chairman called me to his office to review the availability of information, and the way in which that information would be prepared. One of the items of information to be developed, to be considered, was the breakdown of the uncommitted reserves, and so we discussed which items of information would be prepared and how it would be prepared for subsequent consideration by the Chairman and the Commission for submission to the committee.

I then contacted Mr. Mangen to embark upon preparing this information, and in particular the breakdown of the uncommitted reserves by companies and by areas. And if my memory serves me, at that time he told me the information was no longer available because it had been destroyed. I then reported this to the Chairman. He immediately instructed Mr. Maxson, I believe, to initiate an investigation of the circumstances surrounding the destruction of the documents.

Mr. Maxson shortly thereafter reported back to the Chairman, and I believe in my presence, although I am not certain, that the documents had not, indeed, been destroyed, but rather were in the security officer's office and they were in the form that they had been torn into several pieces. At that point I went to the security officer's office to see

where the documents were, what was available there, and he and I began the job of sorting out those documents which obviously were part of the R-405 information from some which were in the classification system, which obviously did not fit. I continued this for a period of time, and then the precise detail I cannot remember. But I then either myself carried some of them back to my office, or asked Mr. Mangen to assist in the sorting of the documents, and to then begin to check and see if all of the documents were there, and what might be missing, and whether or not we had all of the information that was to be required.

Senator KENNEDY. Who recovered the materials from the security officer?

Mr. JOYCE. Well, when I went to the security officer's office, he had the material there. So far as I know all of the material that was involved was in a file drawer, and I believe, as I recall, in some other receptacle. And I began, as I say, along with the security officer sorting the material, and I just do not recall whether I physically carried it back, or I perhaps asked Mr. Mangen to finish the job of sorting it out, and bringing it back to his office where it could be checked and verified that it was all there.

Senator KENNEDY. Mr. Vivian testified yesterday that just the worksheets were initially recovered, that it was not until the second day that the questionnaires were recovered. Can you tell us, sir, what you remember about that?

Mr. JOYCE. Well, that may well have been.

Senator KENNEDY. Why was that?

Mr. JOYCE. No particular reason. I did ask Mr. Mangen to make sure first of all that all of the worksheets were there, all of the takeoff sheets that had all of the information on them, because that was the place to start to make sure we had all of the information on the takeoff sheets. And then the second task was to check all of the other information, and this is quite a stack of papers to be sorted out. So it may well have been that, in the sequence of events, it was not until the second day that the others were physically removed from Mr. Vivian's office.

Senator KENNEDY. How big a box are we talking about?

Mr. JOYCE. Well, as I recall there were a stack of documents about so high, but as they were spread out, they were rather voluminous.

Senator KENNEDY. But I am just wondering why, given the reaction of the Chairman, Mr. Nassikas, why certain documents were recovered or taken out to be examined and others were left down in the security office. It would appear to me that whoever went down there would have grabbed everything that was in sight.

Mr. JOYCE. I attach no significance to this except for the fact that I did instruct Mr. Mangen to assemble, first of all, the worksheets so that we could make sure that we had all of the worksheet documents, so that we could check back against the rest of them. And beyond that, I attached no significance to it.

Senator KENNEDY. We had testimony of a delay of 3 weeks from the time you called Mr. Mangen to prepare data and the time the Office of Economics had received it. And then Mr. Pavetto indicated it only took him a couple of days to actually prepare the data. What accounted for the delay?

Mr. JOYCE. I do not know the time sequence between the dates on which the information was requested and the time at which it was received by the Office of Economics. I do not know that that was 3 weeks or what the time interval was which was actually involved. I just do not know the dates. I know of no reason for any untoward delay in the preparation or forwarding of that information.

Senator KENNEDY. Well, did you not know the Office of Economics needed that material for the *Belco* case?

Mr. JOYCE. I knew that they had requested it.

Senator KENNEDY. Well, that is a long time, though, is it not, Mr. Joyce?

Three weeks. Three weeks, or close to a month, from the time the material was actually requested.

Mr. JOYCE. Again, I am not sure those are the actual times between the date of request for information and the receipt of the information by the Office of Economics, and I have no reason to say that that is a long time or an unreasonable time, in view of the other work involved, and the other assignments that people have. I had no reason to believe that it is an unreasonable time.

Senator KENNEDY. Where would it have gotten held up, do you know?

Mr. JOYCE. I cannot conjecture on that. I just would not know.

Senator KENNEDY. But you did not hold it up?

Mr. JOYCE. No.

Senator KENNEDY. Now, when they got it you termed it administratively confidential. Why was it administratively confidential?

Mr. JOYCE. It was my decision that because this was a compilation of confidential information that it should be termed confidential.

Senator KENNEDY. Why did you reach that conclusion, since it did not identify any of the individual companies?

Mr. JOYCE. Well, because it could be framed down rather narrowly and might give rise to conjecture.

Senator KENNEDY. Has it been released subsequently?

Mr. JOYCE. Yes, I believe it has. I believe that the compilation has been released as a part of the testimony in earlier hearings; I believe before Senator Hart, if I am correct.

Senator KENNEDY. Well, how could you release it then, and what changed your mind about releasing it then?

Mr. JOYCE. Well, the Chairman felt that it should be released, the Chairman of the Commission felt that.

Senator KENNEDY. Senator Hart wrote to the Chairman and requested the R-405 data on March 7, and you replied in the negative on March 20. Is that correct?

Mr. JOYCE. I believe that the correspondence which you have reference to in substance is correct. I believe that the dates are approximately correct.

Senator KENNEDY. Why did you respond to a letter that had been addressed to Mr. Nassikas?

Mr. JOYCE. The inquiry was directed toward a staff report, that is the uncommitted reserves report, which was prepared and issued as a staff report, not a Commission document, and, therefore, it was appropriate that it be a response from the staff. The report was issued by me over my signature.

Senator KENNEDY. Were those the instructions of Mr. Nassikas?

Mr. JOYCE. The content and response to the letter was discussed with the Chairman.

Senator KENNEDY. And he—

Mr. JOYCE. And it was my decision to respond to the letter in that way.

Senator KENNEDY. And so he knew what your response was going to be?

Mr. JOYCE. Yes.

Senator KENNEDY. And you would not have responded that way if he had disagreed?

Mr. JOYCE. Would you mind rephrasing the question?

Senator KENNEDY. Would you have responded that way if he had disapproved of that type of response?

Mr. JOYCE. Well, I am afraid at that point we would have reached an impasse.

Senator KENNEDY. Well, he agreed, then, with your conclusion?

Mr. JOYCE. Well, he did not disagree with it.

Senator KENNEDY. Did you rely on the Freedom of Information Act?

Mr. JOYCE. There were two bases, as I recall the correspondence, the order itself, in which the information was to be held confidential under section 8 of the Natural Gas Act, and the Freedom of Information Act.

Senator KENNEDY. Well, the Freedom of Information Act, as it points out quite clearly, those sections are not authority to withhold information from the Congress.

Do you know what particular provisions of the Freedom of Information Act you relied on?

Mr. JOYCE. That was under—I am sorry, I cannot quote the particular paragraphs. I believe it was paragraphs 3 and 9 of whatever the section is that deals with business information, and also with geophysical and geological data.

Senator KENNEDY. Well, but it does, under 9 in section C, specifically specify that "this section is not authority to withhold information from Congress."

Do you feel that you have some responsibility for Mr. Mangen's actions in this?

Mr. JOYCE. Senator, I feel I have had responsibility for all of the actions of the people who work in the Bureau of Natural Gas.

Senator KENNEDY. Did you tell anyone that he should not be disciplined?

Mr. JOYCE. I did not make a decision one way or the other as to whether he should be disciplined. I was asked my views on whether or not he should be given a notice to present his case, and I concurred that he should be afforded that opportunity.

Senator KENNEDY. Do you think he should be or should not be disciplined?

Mr. JOYCE. As I said before, I do not think that he has—if there were any errors, that this was a mistake, and I do not think that he should be.

Senator KENNEDY. Mr. Chumbris.

Mr. CHUMBRIS. Thank you, Mr. Chairman.

I have no questions.

Mr. BANGERT. Mr. Chairman, could I just try to clarify one point? Senator KENNEDY. Yes.

Mr. BANGERT. I am not sure whether you responded to this question when Senator Kennedy asked you or not, but did you ever receive written or oral instructions from Mr. Maxson, from Chairman Nassikas, or anyone else that R-405 update material should not be destroyed?

Mr. JOYCE. Well, after—again, the June 29th document would have referred to that, because we had it, or it was in existence at that time. So the written instruction refers to that. To the best of my knowledge, prior to that time, I had not, no.

Mr. BANGERT. Did you ever instruct Mangen not to destroy R-405 update documents prior to May 21?

Mr. JOYCE. No, I did not so instruct him.

Mr. BANGERT. Thank you.

Thank you, Mr. Chairman.

Senator KENNEDY. Thank you very much.

Mr. Mangen, Lawrence Mangen.

Mr. Mangen, do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

**TESTIMONY OF LAWRENCE MANGEN, BUREAU OF NATURAL GAS,
FEDERAL POWER COMMISSION, ACCCOMPANIED BY ALLEN PELLERZI,
COUNSEL**

Mr. MANGEN. I do swear.

Mr. PELLERZI. Good morning, Senator.

Senator KENNEDY. Would you tell us about your responsibilities at the Commission, how long you have worked there, what positions you have held?

Mr. MANGEN. I came to work for the Commission in April of 1962 as a GS-11 general engineer, and I am now a GS-14 supervising engineering and assistant to Mr. Albares and have general supervision over the actions and procedures of the gas supply and production section, which requires expertise in the areas of petroleum and geological engineering.

Senator KENNEDY. Now, Mr. Maxson said yesterday that disciplinary action has been proposed against you for your role in the attempted destruction of the R-405 documents.

Can you give us the nature of the charges asserted against you, and your response to those charges?

Mr. MANGEN. Yes, Senator. Can you excuse me one moment while I get out the documents so that I can refer to them?

In a letter that I received from the executive director of the Commission, Mr. Maxson, it states that:

On or about April 23, 1973, you delivered the documents you received pursuant to this order plus various worksheets prepared from those documents to the FPC alternate security officer, George B. Vivian, with instructions to Mr. Vivian that he destroy them. And your action in delivering them to Mr. Vivian and in ordering them destroyed was in direct violation of ordering paragraphs 1 and 2 of the Commission's September 12, 1972, order.

In addition, prior to thus delivering these documents for destruction, you turned over the documents received from the Humble Oil Company pursuant to the September 12, 1972, order to counsel for the company upon his request.

Although these particular documents were subsequently returned to the Federal Power Commission, your action in turning them over to the company's representative was also in direct violation of the Commission order.

It says:

You will be allowed 10 calendar days from your receipt of this letter in which to file such written response.

Senator KENNEDY. And what was your response to those charges, briefly?

Mr. MANGEN. Well, I have a 6-page response, Senator Kennedy, to this, which details why I think I am not guilty of any of these charges.

Senator KENNEDY. We will make that a part of the record so that we have a complete record of these responses in detail.

[The material referred to follows. Testimony resumes on p. 1006.]

FEDERAL POWER COMMISSION,
OFFICE OF THE EXECUTIVE DIRECTOR,
Washington, D.C., June 25, 1973.

Mr. LAWRENCE R. MANGEN,
Supply and Production Section, Planning and Development Division, Bureau of Natural Gas, Federal Power Commission, Washington, D.C.

DEAR MR. MANGEN: This letter is to serve notice that, on the basis of my investigation of your handling of records collected in FPC Docket No. R-405, I am proposing that disciplinary action be taken against you for your violation of the Commission's Order of September 12, 1972, in Docket No. R-405. Specifically, I am proposing to suspend your employment with the Federal Power Commission, without pay, for a period not to exceed thirty calendar days under Subpart C, Part 752, Title 5, Code of Federal Regulations, or in the alternative, to impose upon you whatever lesser sanction may be appropriate upon consideration of all of the circumstances in this case. The reasons for the proposed action are as follows:

1. The September 12, 1972, Order of the Commission in Docket No. R-405, Ordering paragraphs 1 and 2, required natural gas companies to submit to you certain data relating to uncommitted natural gas reserves, in sealed envelopes plainly marked "Confidential," and directed that the information you thus received be "maintained in confidential status."

2. On or about April 23, 1973, you delivered the documents you received pursuant to this Order plus various worksheets prepared from those documents to the FPC Alternate Security Officer, George B. Vivian, with instructions to Mr. Vivian that he destroy them. Although none of the documents thus delivered for destruction was in fact destroyed, your actions in delivering them to Mr. Vivian and in ordering them destroyed was in direct violation of Ordering paragraphs 1 and 2 of the Commission's September 12, 1972, Order.

3. Prior to thus delivering these documents for destruction, you turned over the documents received from the Humble Oil Company pursuant to the September 12, 1972, Order to counsel for that company, upon his request. Although these particular documents were subsequently returned to the Federal Power Commission, your action in turning them over to the company's representative was also in direct violation of the Commission Order.

Please be advised that you are hereby afforded an opportunity to explain your actions fully, in writing addressed to me, and thereby to resist this proposed disciplinary action. A written response, if one is submitted, must be under oath and may be supported by such affidavits as you care to submit. You will be allowed 10 calendar days from your receipt of this letter in which to file such written response.

As soon as is feasible after your written response is received, or after expiration of the 10-day period afforded if no response is filed, I shall issue a written decision in the case.

A copy of the Commission's September 12, 1972, Order in R-405 and of my report of investigation of the handling of the confidential reserves data filed pursuant to that Order are attached.

Yours truly,

WEBSTER P. MAXSON, *Executive Director.*

Attachments: (1) Report of Investigation of records handling, R-405. (2) September 12, 1972 Order in R-405.

Attachment 1

Memorandum to: Chairman Nassikas.

From: Executive Director.

Subject: Investigation of the instruction given to the Office of Administrative Operations to destroy records containing confidential gas reserves information collected from producers under the Commission's September 12, 1972 Order Updating Nationwide Investigation in Docket No. R-405.

On Monday, May 21, 1973, you were advised by the Bureau of Natural Gas that the confidential producer information filed pursuant to the September 12, 1972, Order in R-405, together with the staff worksheets prepared from these filings, had been delivered to the FPC Alternate Security Officer, George P. Vivian, Office of Administrative Operations, for destruction, notwithstanding the instruction in the Order that these documents be maintained in confidential status. Immediately thereafter, on May 21, you directed me to conduct a complete investigation of the matter.

Transmitted herewith is a report of my findings to date.

EXECUTIVE DIRECTOR'S REPORT OF INVESTIGATION OF THE HANDLING OF CONFIDENTIAL GAS RESERVES DATA FILED BY PRODUCERS PURSUANT TO THE ORDER OF THE COMMISSION ISSUED SEPTEMBER 12, 1972, IN R-405

On November 4, 1970, the Federal Power Commission issued a "Policy Statement, Notice of Investigation, and Proposed Rulemaking with Respect to Developing Emergency Plans" in Docket No. R-405, Reliability of Electric and Gas Service. The order directed an extensive data collection from jurisdictional and nonjurisdiction production, transmission, and distribution electric and gas companies. Two Commissioners filed separate dissents.

The Notice of Investigation ordered large producers of natural gas to report all holdings, in any area, of proven reserves which had not been contracted to pipeline companies for resale or to direct customers for immediate consumption. In eliciting this information, the FPC announced that although the information would be collected on an individual company basis, its confidentiality would be protected, and only composite figures would be made public. This assurance was stated in the November 4, 1970, order as follows:

"Information revealed to the Staff shall be treated as confidential information without public disclosure under the provisions of Section 8(b) of the Natural Gas Act [15 U.S.C. 717g] and the Freedom of Information Act [5 U.S.C. 552(b)(4)]. Compliance with the order shall not constitute nor be construed as a waiver of any claim of privilege by any producer."

On September 12, 1972, the Commission issued a further order in Docket No. R-405 entitled "Order Updating Nationwide Investigation" eliciting similar information with respect to natural gas reserves as of December 31, 1971, and June 30, 1972. Ordering Par. 1 directed the companies listed in Appendix A to submit information in response to the questionnaire set forth in Appendix B to Mr. Lawrence R. Mangen of the Bureau of Natural Gas at the Commission's headquarters offices in Washington. The filings were to be "plainly marked CONFIDENTIAL," and Ordering Par. 2 contained the following instruction concerning the handling of the responses filed:

"For the purposes of this investigation no responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552 (b)(4) and (9)."

Over the next several months all 79 of the large producers listed in Appendix A of the September 12, 1972, order filed the required information with respect to their gas reserves available for sale or filed statements to the effect that they had no uncommitted reserves. As the data were received, the information apparently was closely held by Mangen, kept under lock in his office, and taken out only for purposes of extractions and computations by him or by Carl Pavetto or Joyce Powell of his section. The safe in the Office of the Chief of the Bureau of Natural Gas now contains a number of worksheets which identify figures with individual companies and therefore, like the company filings from which they were extracted, are confidential. In addition, Mangen has produced some 43 worksheets which consist of schedules of aggregated figures which do not reveal the reserves information of individual companies.

Apparently these confidential and possibly non-confidential tabulations, comparisons, and composites prepared by Mangen or under his supervision were

examined by and discussed among Mangen, Pavetto, Joyce Powell, Thomas J. Joyce, Chief of the Bureau of Natural Gas, Frederick D. Cornelius, Chief of the Division of Systems Operations, Bureau of Natural Gas, and Edward A. Albares, Head of the Gas Supply and Production Section, Systems Operations Division. However, because of the confidentiality of the data from which they were taken and the possibility of unintentional disclosure of individual company figures by comparison of different schedules, none of the information developed was made available outside Mangen's office staff or Mangen's supervisors while this work was in progress.

By memorandum to the Commission dated February 9, 1973, Mr. Joyce submitted a report prepared from the company filings and previous data collections. The memorandum included a summary schedule showing total large producer gas reserves available for sale on December 31, 1969, October 1, 1970, December 31, 1971, and June 30, 1972, and attached three tables providing breakdowns of these figures by area and by nonassociated and associated-dissolved gas reserves.

On February 22, 1973, the reserves information provided in the staff report was published, with an appropriate news release.

On February 27, 1973, Dr. John W. Wilson, Chief of the Division of Economic Studies, Office of Economics, directed an economist in his Division, Mr. Melvin Kofkin, to attempt to learn from the information filed by the companies which producers and which areas account for the total reserves available for sale on June 30, 1972. He sent Mr. Kofkin a handwritten note instructing him to consult with him before contacting anyone in the Bureau of Natural Gas. Apparently Wilson's interest in the underlying confidential data, as it was explained to Kofkin, was to try to learn what concentration of control of gas available for sale might exist, by company and by region, and to use this information in testimony Wilson was scheduled to give in proceedings before the FPC.

According to a sworn statement given by Kofkin on June 14, 1973, he consulted with Dr. Wilson on February 27, 1973, after receiving his handwritten note, and on the same day "contacted a number of people" in the Bureau of Natural Gas to get the information sought by Wilson. When asked to identify some of the people contacted, Kofkin identified only Mr. Victor Zabel, a member of Mr. Albares' staff, whom he talked to by telephone on February 27. According to Kofkin's statement, he believed that Zabel was the individual who collected the company data sought by Dr. Wilson. According to Kofkin, Zabel told him over the telephone that he could not have the "backup data" because it was confidential under the terms of the "original order" and further because "it had been destroyed." In his sworn statement Mr. Kofkin stated that he reported back to Dr. Wilson on the same day, February 27, 1973, that Zabel had advised him that the basic data had been destroyed. Thereupon, according to Kofkin, Dr. Wilson informed him that he, Wilson, would "take it forth."

As a part of this investigation, the sworn statement of Victor H. Zabel was taken on June 22, 1973. In that statement Zabel denied that he knew Melvin Kofkin and denied any recollection of the telephone conversation Kofkin claimed he had with Zabel on February 27, 1973. Zabel explained that he had collected gas reserves information in earlier proceedings, but was not in any way involved in the receipt, processing, use, or disposition of any information collected pursuant to the Commission's Stepember 12, 1972, order in R-405. Zabel further explained that over a period of time he had received various inquiries from the Office of Economics concerning the information collected in the data gathering activities in which he had participated, and if in fact he received any inquiry from the Office of Economics on February 27, 1973, he would have responded with reference to the information collected in the earlier proceedings, not the information received under the September 12, 1972, order in R-405. Zabel disclaims any knowledge, on February 27, 1973, of the status of the company filings collected under the September 12, 1972, order in R-405.

Mr. Kofkin stated that he had no further contact with the matter from February 27, 1973, until about March 29, 1973, when Dr. Wilson furnished him with further data prepared by the Bureau of Natural Gas at Wilson's request and directed Kofkin to "take up where I had left off."

On March 7, 1973, Senator Philip A. Hart, Chairman of the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, requested by letter that the Federal Power Commission provide his Subcommittee and the Federal Trade Commission with certain information as to the manner in which the data in the Updated Nationwide Investigation under R-405 was collected, verified, and analyzed, together with the identity of each producer's pipeline customers, the amounts of gas sold to each, and the prices obtained therefor during the 1970 to mid-1971 period.

By letter of March 20, 1973, from Thomas J. Joyce, Chief of the Commission's Bureau of Natural Gas, Senator Hart was supplied with the requested information, except the detailed data on specific reserves held by individual producers. As to this latter information, Senator Hart was advised that it was confidential in its disaggregated form in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (a).

In a sworn statement given by Dr. Wilson on June 22, 1973, he stated that following the February 27, 1973, report from Kofkin that the basic data he was after had been destroyed, he reviewed the Commission's September 12, 1972, order and concluded that destruction of the company filings was not in compliance with the order, and therefore took up the matter with the Chief Economist, Dr. Haskell P. Wald.

Thereafter, Wald and Wilson met with Thomas J. Joyce, Chief of the Bureau of Natural Gas, and received from him a commitment to provide the Office of Economics aggregated figures showing the amounts of uncommitted reserves available for sale by the four largest producers and the eight largest producers, by area.

By memorandum to the Chief, Office of Economics, dated March 21, 1973, Joyce furnished the figures he had promised, as of December 31, 1971, and June 30, 1972, prepared by Mangen. His memorandum noted that furnishing these composited figures did not violate the confidentiality requirement of the September 12, 1972 order, but nevertheless requested that the composited report be treated as administratively confidential. By handwritten note to Dr. Wilson, dated March 22, 1973, Dr. Wald transmitted the BNG composited report, indicating that he would "be interested in the percentages."

Apparently a week or more went by before Wilson delivered the March 21 composited data to Kofkin and asked him to pick up where he left off on February 27, 1973. According to Kofkin, notes on his calendar for April 2 and 3, 1973 indicate that he found errors in the schedule attached to Joyce's March 21, 1973 memorandum, and spoke with Mangen about the errors on April 2, then picked up in Mangen's office the corrected figures on April 3. According to Kofkin, a note on his calendar for the following day, April 4, indicates that he also found errors in the original report published on February 22, 1973.

By memorandum of April 6, 1973, Mr. Kofkin transmitted to Dr. Wilson a worksheet setting forth concentration ratios for the four and eight largest producers, by area, apparently prepared from the report published on February 22, 1973, the administratively confidential report furnished by BNG dated March 21, 1973, and the corrections supplied by Mangen on or about April 3, 1973. Mr. Kofkin's covering memorandum attempts to detail the errors in the published report, but seems to indicate that the errors in the March 21 composite report were corrected by Mangen's office following their disclosure on or about April 2, 1973. The memorandum concludes with a statement that "Mr. Mangen has indicated that all records were destroyed last week," that correction of the errors and verification of the figures used therefore was impossible, and that Dr. Wilson, as a result would have to use the calculated ratios with great care.

On June 12, 1973, Mr. Lawrence R. Mangen, Assistant Section Head, Gas Supply and Production Section, Systems Operations Division, Bureau of Natural Gas, gave a sworn statement. In that statement he indicated that only Carl Pavetto, an engineer in his section, Joyce Powell, Staff Assistant in the section, and he, Mangen, were afforded access to the company filings during their processing for purposes of preparation of the staff report published on February 22, 1973, and the aggregated figures on the four largest and eight largest producers, by area, furnished to the Office of Economics on March 21, 1973. Mr. Mangen stated under oath that he received a request from the Office of Economics for the confidential company filings, but that he denied the request on the ground that the Commission's order in the proceeding precluded him from delivering the basic data to the Office of Economics.

According to Mangen, it was his understanding that the Commission's order of September 12, 1972, in R-405 required him to maintain the company responses (and all papers on which figures identified with particular companies were copied) in confidential status until their usefulness in preparing the staff report had ended. Further, he explains that it was his understanding that these confidential papers were to be destroyed or returned to the respondents following publication of the staff report, since this was the procedure followed after the earlier data collection in R-405, under the Commission Order of November 4, 1970. Also, Mr. Mangen produced a letter from Kirk W. Weinert, Attorney for Texaco, Inc., dated October 13, 1972, which he argues confirmed his understanding by requesting

that the Texaco submission under the September 12, 1973, order be returned to the company or destroyed. In addition, counsel for the Humble Oil Company requested the return of that company's filing, and Mangen in fact did return it. (When it was called to the attention of the Chairman on May 21, 1973, that one of the filings had been returned to the company at the company's request, the Chairman directed that a demand be issued for its immediate return, and if the filing was not returned promptly, that a subpoena be issued forthwith. The Humble Oil Company, now Exxon, whose filing was the one involved, again submitted its original filing, and it now is in the BNG safe.)

In his sworn statement, Mangen stated that he "did not see anything in the order which would be in opposition to that" and that he "thought the statement (in the order) that they should be maintained in a confidential status meant until the composite report was published—." Mangen admitted that he understood that, following February 22, 1973, when the public report of the updated investigation was issued, Senator Hart requested the information underlying the composite report.

Mr. Mangen acknowledges the fact that there were minor errors in both the staff report published on February 22, 1973, and the March 21, 1973, composites furnished to the Office of Economics. He explains that he identified and corrected these errors, then after waiting "a couple of weeks" to determine whether there might be any further use for the confidential documents, delivered them to Mr. George B. Vivian, Alternate Security Officer, Office of Administrative Operations, for destruction. Although none of the persons involved has been able to fix precisely the date of this delivery, it appears to have been during the week of April 23, 1973. According to Mangen, he consulted no one before making this disposition of the company filings and confidential worksheets prepared therefrom.

Upon delivery to him, Vivian tore the documents into four pieces, in the presence of a witness, Mrs. Sue Hyde, Administrative Assistant to the Chief, Office of Administrative Operations, and placed them in a paper bag with other national security materials so prepared for burning, and placed the "burn-bag" in a safe in his office. There the materials remained undisturbed until May 21, 1973, when this disposition was reported to the Chairman and he immediately ordered the entire file to be recovered, returned to the Office of the Chief, Bureau of Natural Gas, and reconstituted by piecing and taping together all of the torn pages.

The complete file has been restored and now is held in the safe in the Office of the Chief, Bureau of Natural Gas. Under the supervision of Mr. Gordon Zareski, Chief of the Planning and Development Division, Bureau of Natural Gas, all errors in the February 22, 1973 report which was published and the March 21, 1973 report furnished to the Office of Economics have been reviewed and corrected. In addition, certain composited data demonstrating the concentration of reserves available for sale in the 4, 8, and 20 largest companies, by area, were prepared and furnished to the Antitrust and Monopoly Subcommittee of the Senate Judiciary Committee on June 18, 1973.

On June 25, 1973, the Bureau of Natural Gas published a revised report of uncommitted natural gas reserves, confirming, except for noted minor revisions, the staff report published on February 22, 1973. A copy of the February report and the news release issued at that time, as well as the June 25, 1973 revised report with accompanying news release are attached.

The Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U.S. Senate, on June 21, 1973, has issued a subpoena commanding the production of all documents and papers of any nature whatsoever resulting to the Commission's order updating the nationwide investigation in R-405, issued September 12, 1972. The subpoena thereby compels the production of the confidential producer filings and worksheets prepared therefrom, as well as all correspondence and miscellaneous communications relating to the data collection and preparation and publication of the staff report and the handling of the confidential uncommitted reserves data.

On June 22, 1973, the Commission amended its September 12, 1972 order in R-405 to authorize the delivery by the Chairman of the Commission of all documents within the compass of the subpoena, subject to the conditions of the Commission's modifying order. A copy of the September 12, 1972 order and of the June 22, 1973 amending order, together with news releases issued on those dates, are also attached.

Attachments: (1) Commission order of September 12, 1972, Updating Nationwide Investigation. (2) News Release of September 12, 1972. (3) Commission Order of June 22, 1973, amending prior order in R-405. (4) Staff report on uncommitted natural gas reserves published February 22, 1973, with accompanying

news release. (5) Revised staff report published June 25, 1973, with accompanying news release.

Attachment 2

UNITED STATES OF AMERICA FEDERAL POWER COMMISSION (18 CFR PART 2)

Before Commissioners: John N. Nassikas, Chairman; Albert B. Brooke, Jr., Pinkney Walker, and Rush Moody, Jr.

Reliability of Electric and Gas Service, Docket No. R-405

ORDER UPDATING NATIONWIDE INVESTIGATION

Issued September 12, 1972

In our notice of investigation and proposed rulemaking with respect to developing emergency plans which was issued in this docket on November 4, 1970, we sought with regard to the natural gas industry to elicit information so as to enable us to assess the adequacy and reliability of the gas supply and deliverability to meet consumer demand for the oncoming winter season and four winters following. Evidence of anticipated curtailment of necessary service impelled the Commission to take affirmative steps in the public interest to obtain reliable factual information regarding the sources of available gas and the facilities existing and planned to deliver such gas to meet consumer demands and to determine the terms and conditions of a rule or rules necessary to avoid or minimize the consequences of any emergencies that may develop. Amendments of the Commission's regulations proposed in this docket are still under Commission consideration.

Pursuant to this action and in the implementation thereof Commission investigatory officers designated in the notice by letter dated November 20, 1970, directed 75 gas producers, representing all of the large gas producers whose individual jurisdictional sales of natural gas totalled in excess of 10 million Mcf annually, to respond thereto on forms designed to elicit the information necessary for Commission consideration. The responses were designed to cover separately the two time frames set forth in the notice.

The responses received pursuant to the said letter were particularly useful to the Commission in enabling it to assess problems which have arisen as a result of shortages in the gas supply and to take steps designed to meet them.

However, the industry has been unable to meet consumer demands. This has been amply evidenced by the filing pursuant to Order No. 431 by 27 of the natural gas pipeline companies subject to Commission jurisdiction of curtailment proposals. To enable the Commission to supplement its information, it is essential in the public interest for a better understanding of the problems prevailing in the industry that data almost identical in form to that previously supplied be submitted for evaluation and appropriate action. For the purpose of this continued investigation the current data should relate also to two time periods, one as of December 31, 1971, and the other as of June 30, 1972. Accordingly,

It is ordered that:

1. The investigation initiated by notice issued on November 4, 1970, in Docket No. R-405 be updated by the filing by the natural gas companies listed in Appendix A of responses to the questionnaires set forth in Appendix B, and that such responses be submitted in hand to Mr. Lawrence R. Mangen at Room 2071, 441 G Street, N.W., Washington, D.C. in a sealed envelope plainly marked "CONFIDENTIAL" on or before October 6, 1972. However, it should be noted that certain minor geographic changes have been made to the questionnaires separating the Federal Offshore Zones from State Offshore Zones. Any questions regarding said forms should be directed to Mr. Mangen, who may be reached by telephone at 202-386-6172.

2. For the purposes of this investigation no responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552 (b)(4) and (9). It should be noted that unlike the previous filing all responses will be made at the Federal Power Commission Offices in Washington, D.C.

3. The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

(SEAL)

KENNETH F. PLUMB, *Secretary*.

APPENDIX A

Amerada Hess Corporation.	Lone Star Producing Company.
American Petrofina Co. of Texas	Louisiana Land and Exploration Company.
Amoco Production Company.	LVO Corporation.
Anadarko Production Company.	Mapco Production Company.
Ashland Oil and Refining Company.	Marathon Oil Company.
Atlantic-Richfield Company.	Mobil Oil Corporation.
Austral Oil Co., Inc.	Monsanto Company.
Aztec Oil and Gas Company.	Natural Gas and Oil Corporation.
Bass Enterprises Production Company.	Northern Natural Gas Prod. Company.
Belco Petroleum Corporation.	Ocean Drilling & Exploration Company.
Beta Development Company.	Petroleum Inc.
Cabot Corporation.	Phillips Petroleum Company.
California Co., Div. Chevron Oil Company.	Pioneer Production Corp.
Champlin Petroleum Company.	Placid Oil Company.
Chevron Oil Co.	Pennzoil Producing Company.
Cities Service Company.	Pennzoil United, Inc.
Cities Service Oil Company	Pubco Petroleum Corporation.
Clinton Oil Company.	The Rodman Corporation.
Coastal States Gas Producing Company.	Shell Oil and Gas Company.
E. Cockrell, Jr.	Signal Oil and Gas Company.
Colorado Oil and Gas Corporation.	Skelly Oil Company.
Coltexo Corporation.	Sohio Petroleum Company.
Columbia Gas Development Corporation.	Southern Natural Gas, Jt. Venture.
Continental Oil Company.	Southern Union Gathering Company.
Edwin L. Cox.	Southern Union Production Company.
Diamond Shamrock Corporation.	Suburban Propane Gas Corp.
Dorchester Gas Production Company.	Sun Oil Company.
Exchange Oil and Gas Company.	Tenneco Oil Company.
Forest Oil Corporation.	Tennessee Gas Supply Co.
General American Oil Co. of Texas.	Terra Resources Inc.
Getty Oil Company.	Texaco Inc.
Gulf Oil Corporation.	Texas Gas Exploration Corporation.
Hassie Hunt Trust.	Texas Oil and Gas Corporation.
Helmerich & Payne, Inc.	Transocean Oil, Inc.
J. M. Huber Corporation.	The Superior Oil Company.
Humble Oil and Refining Company.	Union Carbide Petroleum Corporation.
Hunt Oil Company.	Union Oil Company of California.
The Jupiter Corporation.	Union Pacific Railroad Co.
Kerr-McGee Corporation.	Union Texas Petroleum.
	Warren Petroleum Corporation.

APPENDIX B

Question A. Will you please state your name, the name of your company and your position with the company?

Question B. Are you authorized by your company to furnish the information requested in the following interrogatories?

Question C. If not, will you please state the name or names of the official or officials of your company who have such information?

Question D. Do you understand that the Investigating Officer will combine the information obtained from you with information obtained from others and file a composite report in the public files in Docket No. R-405?

CERTIFICATION

I certify that the information hereon is correct to the best of my knowledge.

Question E. Will you please state the net working interest volumes, including associated royalty interest volumes, of proved recoverable reserves of non-associated natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1971, for the areas hereinafter designated? (For the purpose of questions E-J, the term "proved reserves" is used as defined by the Committee on Natural Gas Reserves of the American Gas Association and such definition is set forth on Appendix B-8 of this letter. The volumes held "available for sale" in questions E-J are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, not company use-warranty gas or not company use-fuel and feedstock.)

What are the volumes in:

1. Alaska?
2. Northern Arkansas? ¹
3. Southern Arkansas?
4. California?
5. Offshore California? ²
 - a. Federal
 - b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? ²
 - a. Federal
 - b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? ³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 5?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A,
 7B and 7C?
30. Texas Railroad District Nos. 5 and
 6?
31. Texas Railroad District Nos. 1, 2, 3
 and 4?
32. Offshore Texas? ²
 - a. Federal
 - b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question F. Will you please state the net working interest volumes, of proved recoverable reserves of associated and discovered natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1971 for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? ¹
3. Southern Arkansas?
4. California?
5. Offshore California? ²
 - a. Federal
 - b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? ²
 - a. Federal
 - b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? ³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A,
 7B and 7C?
30. Texas Railroad District Nos. 5 and
 6?
31. Texas Railroad District Nos. 1, 2, 3
 and 4?
32. Offshore Texas? ²
 - a. Federal
 - b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota.

Question G. Will you please state the total net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated and of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of December 31, 1971, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? ¹
3. Southern Arkansas?
4. California?
5. Offshore California? ²
 - a. Federal
 - b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? ²
 - a. Federal
 - b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? ³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? ²
 - a. Federal
 - b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question H. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale as of June 30, 1972, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? ¹
3. Southern Arkansas?
4. California?
5. Offshore California? ²
 - a. Federal
 - b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? ²
 - a. Federal
 - b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? ³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

30. Texas Railroad District Nos. 5 and 6?
 31. Texas Railroad District Nos. 1, 2, 3 and 4?
 32. Offshore Texas?
 a. Federal
 b. State
33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas? *

38. What is the total of the volumes furnished in response to questions 1-37?

* For the purpose of this question, the offshore area shall be measured from the coastline seaward.

* For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question I. Will you please state the net working interest volumes, including royalty interest volumes, of proved recoverable reserves of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degree Fahrenheit, that your company had available for sale as of June 30, 1972, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
 2. Northern Arkansas?
 3. Southern Arkansas?
 4. California?
 5. Offshore California?
 6. Colorado?
 7. Illinois?
 8. Indiana?
 9. Kansas?
 10. Kentucky?
 11. North Louisiana?
 12. South Louisiana?
 13. Offshore Louisiana?
 a. Federal
 b. State
 14. Michigan?
 15. Mississippi?
 16. Montana?
 17. Nebraska?
 18. Northwest New Mexico?
 19. Southeast New Mexico?
 20. New York?
21. North Dakota?
 22. Ohio?
 23. Oklahoma Panhandle area?
 24. Oklahoma Anadarko area?
 25. Eastern Oklahoma?
 26. Pennsylvania?
 27. Texas Railroad District No. 9?
 28. Texas Railroad District No. 10?
 29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
 30. Texas Railroad District Nos. 5 and 6?
 31. Texas Railroad District Nos. 1, 2, 3, and 4?
 32. Offshore Texas?
 a. Federal
 b. State
 33. Utah?
 34. Virginia?
 35. West Virginia?
 36. Wyoming?
 37. Miscellaneous areas? *

38. What is the total of the volumes furnished in response to questions 1-37?

* For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

* For the purpose of this question, the offshore area shall be measured from the coastline seaward.

* For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

* For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

Question J. Will you please state the *total* net working interest volumes, including royalty interest volumes, of proved recoverable reserves of non-associated and of associated and dissolved natural gas in MMcf, at 14.73 psia and 60 degrees Fahrenheit, that your company had available for sale of as June 30, 1972, for the areas hereinafter designated?

What are the volumes in:

1. Alaska?
2. Northern Arkansas? ¹
3. Southern Arkansas?
4. California?
5. Offshore California? ²
 - a. Federal
 - b. State
6. Colorado?
7. Illinois?
8. Indiana?
9. Kansas?
10. Kentucky?
11. North Louisiana?
12. South Louisiana?
13. Offshore Louisiana? ²
 - a. Federal
 - b. State
14. Michigan?
15. Mississippi?
16. Montana?
17. Nebraska?
18. Northwest New Mexico?
19. Southeast New Mexico?
20. New York?
21. North Dakota?
22. Ohio?
23. Oklahoma Panhandle area? ³
24. Oklahoma Anadarko area?
25. Eastern Oklahoma?
26. Pennsylvania?
27. Texas Railroad District No. 9?
28. Texas Railroad District No. 10?
29. Texas Railroad District Nos. 8, 8A, 7B and 7C?
30. Texas Railroad District Nos. 5 and 6?
31. Texas Railroad District Nos. 1, 2, 3 and 4?
32. Offshore Texas? ²
 - a. Federal
 - b. State
33. Utah?
34. Virginia?
35. West Virginia?
36. Wyoming?
37. Miscellaneous areas? ⁴

38. What is the total of the volumes furnished in response to questions 1-37?

¹ For the purpose of questions 2 and 3, Arkansas is divided between North and South by base line separating townships North and South.

² For the purpose of this question, the offshore area shall be measured from the coastline seaward.

³ For the purpose of questions 23-25, Oklahoma is divided between Eastern and Western Oklahoma by the central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ For the purpose of this question, the Miscellaneous areas shall include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee and Washington.

DOCKET NO. R-405—PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE¹[Million cubic feet at 14.73 lb/in²a, 60° F]

State	Volumes as of Dec. 31, 1971			Volumes as of June 30, 1972		
	Non-associated	Associated, dissolved	Total	Non-associated	Associated, dissolved	Total
Alaska.....						
Arkansas: ²						
Northern.....						
Southern.....						
California:						
Offshore California: ³						
(a) Federal.....						
(b) State.....						
Colorado.....						
Illinois.....						
Indiana.....						
Kansas.....						
Kentucky.....						
Louisiana:						
North.....						
South.....						
Offshore: ³						
(a) Federal.....						
(b) State.....						
Michigan.....						
Mississippi.....						
Montana.....						
Nebraska.....						
New Mexico:						
Northwest.....						
Southwest.....						
New York.....						
North Dakota.....						
Ohio.....						
Oklahoma: ⁴						
Panhandle.....						
Anadarko.....						
Eastern.....						
Pennsylvania.....						
Texas:						
Railroad District:						
No. 9.....						
No. 10.....						
Nos. 8, 8A, 7B, 7C.....						
Nos. 5, 6.....						
Nos. 1, 2, 3, 4.....						
Offshore: ³						
(a) Federal.....						
(b) State.....						
Utah.....						
Virginia.....						
West Virginia.....						
Wyoming.....						
Miscellaneous ⁵						
Total.....						

¹ Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the Committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

"Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, Proved Reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities"."

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale" are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² Arkansas is divided between north and south by base line separating townships north south.

³ Offshore areas shall be measured from the coastline seaward.

⁴ Oklahoma is divided between eastern and western Oklahoma by the central Oklahoma Indian meridian separating ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the panhandle meridian separating ranges E and W.

⁵ Includes Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee, and Washington.

FEDERAL POWER COMMISSION, NEWS RELEASE, SEPTEMBER 12, 1972, DOCKET
NO. R-405, RELIABILITY OF GAS SERVICE, No. 18554

FPC TO UPDATE NATIONWIDE INVESTIGATION OF RELIABILITY OF NATURAL GAS
SERVICE

The Federal Power Commission announced today a plan to update the information on uncommitted natural gas reserves in its two-year-old investigation which was initiated to enable it to assess the adequacy and reliability of gas supply and deliverability to meet consumer demands.

Today's order directs 79 large natural gas producers to provide information on gas which they have available for sale as of last December 31 and also as of June 30 of this year.

The Commission's order initiating the investigation was issued November 4, 1970. In its order today, the FPC pointed out that since then the industry has been unable to meet consumer demands. The first questionnaires collected data as of December 31, 1969 and October 1, 1970.

The Commission said that to enable it to supplement its information, "it is essential in the public interest for a better understanding of the problems prevailing in the industry that data almost identical in form to that previously supplied be submitted for evaluation and appropriate action."

The Commission said that evidence of anticipated curtailments of necessary service impelled it to take affirmative steps in the public interest to obtain reliable factual information relating to sources of available gas as well as facilities to deliver it.

The updated investigation is designed to determine the terms and conditions of rules which the FPC is considering adopting to avoid or minimize the consequences of any emergencies that may develop, the Commission said.

Today's order provides that information submitted in response to the questionnaire will be maintained in a confidential status in accordance with provisions of the National Gas Act and the Freedom of Information Act.

The producers must report data on volumes of gas available for sale in various producer areas. The reports, to be hand-delivered to the FPC's offices in Washington, D. C., are due by October 6.

UNITED STATES OF AMERICA, FEDERAL POWER COMMISSION

Before Commissioners: John N. Nassikas, Chairman; Albert B. Brooke, Jr.; and Rush Moody, Jr.

Reliability of Electric and Gas Service, Docket No. R-405

ORDER OF MODIFICATION TO AUTHORIZE COMPLIANCE WITH CONGRESSIONAL
SUBPOENA DUCES TECUM

Issued June 22, 1973

This Commission is called upon today to determine whether its Chairman should supply confidential gas reserve data to the Senate Judiciary Committee's Subcommittee on Antitrust and Monopoly on June 26, 1973, in compliance with a *subpoena duces tecum*, notwithstanding that such action is inconsistent with the terms and spirit of earlier orders of this Commission eliciting such data. For the reasons discussed hereafter, we find that compliance with the subpoena is our only alternative in the absence of judicial intercession.

In 1970, in response to the increasingly pessimistic reports of the nation's natural gas reserves, this Commission launched an investigation into the present and future adequacy of the interstate gas supply. In furtherance of said investigation, on November 4, 1970, we issued in Docket No. R-405 a document entitled "Policy Statement, Notice of Investigation, and Proposed Rulemaking With Respect to Developing Emergency Plans." This order required all large scale producers of natural gas to report any holdings of proven natural gas reserves in any area which had not been contracted to pipeline companies for resale or to direct customers for immediate consumption. In seeking to elicit this data, the Commission assured the producers that, although the information would be received on a company-by-company basis, only composite figures for the industry would be released to the public and that the material received would be treated in a confidential manner. This assurance was specifically stated in the Commission's order of November 4, 1970:

"Information revealed to the Staff shall be treated as confidential information without public disclosure under the provisions of Section 8(b) of the Natural Gas Act [15 U.S.C. 717g] and the Freedom of Information Act [5 U.S.C. 552(b)(4)]. Compliance with the order shall not constitute nor be construed as a waiver of any claim of privilege by any producer."

Further information was requested on September 12, 1972, when the Commission issued its "Order Updating Nationwide Investigation." The Commission again assured the producers that the confidentiality of the data submitted would be respected:

For the purposes of this investigation no responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (9)."

The policy reasons underlying our assurance of confidentiality are obvious. In a period when the gas supply shortage is most acute, disclosure of detailed reserve data would undoubtedly inhibit future exploration for new gas reserves since speculators and competitors could equally benefit from the geological and geo-physical expenditures of other companies. A competitor would particularly benefit from knowledge of another producers' uncommitted reserves for particular locations, especially in highly competitive areas. In addition, it would be extremely unfair to sellers of gas to disclose such data to potential buyers with whom they negotiate for the sale of gas. Furthermore, we believe that certain reserve data constitutes a valuable property right which should not be taken without due process and just compensation.

On the basis of our assurance of confidential treatment, seventy nine producers voluntarily furnished the Commission with the detailed uncommitted reserve data as of December 31, 1971, and June 30, 1972, requested in the order of September 12, 1972. This group represented all of the producers who had individual sales of natural gas subject to the jurisdiction of the Commission of over 10 million Mcf annually.

On March 7, 1973, Senator Philip A. Hart, Chairman of the Senate Judiciary Committee's Subcommittee on Antitrust and Monopoly, requested by letter that the Commission provide certain information to his subcommittee and to the Federal Trade Commission as to the manner in which the gas supply data was gathered and analyzed. Specifically, Senator Hart requested that the Commission provide:

1. The questionnaire or other request for information sent to the 79 producers.
2. A description of the procedure used to verify the data supplied by the producers.
3. An estimate of the proportion of domestic natural gas reserves available for sale controlled by the 79 producers.
4. The amount and possible reason for each of the 79 producers' decline in reserves.
5. The identity of each producer's pipeline customers and the amounts of gas sold to each and the price obtained for the 1970 to mid 1971 period.

By letter of March 20, 1973, from Thomas J. Joyce, Chief of the Commission's Bureau of Natural Gas, Senator Hart was supplied with the requested information, except the detailed data on specific reserves held by individual producers. As to this latter information, Senator Hart was advised that it was confidential in its disaggregated form in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552 (b)(4) and (a).

On May 18, 1973, Senator Hart requested by letter that Chairman Nassikas appear before the Subcommittee on Antitrust and Monopoly and offer testimony on competition and concentration in the natural gas industry. In addition to requesting that Chairman Nassikas direct his comments to the general impact of government regulation on competition within the industry and the effectiveness of such regulation in increasing natural gas production, Senator Hart renewed his request for detailed information given by producers to the Commission showing the concentration of control of certain reserves and the amounts controlled by the major producers.¹

¹ Senator Hart, while indicating the scope of his inquiry, has never identified the legislative purposes of his subcommittee's involvement in requesting the detailed individual producer data, nor the nature and extent of its authority to request such data. *Watkins v. U.S.*, 354 U.S. 178 (1957); *Gojack v. U.S.*, 384 U.S. 702 (1966); Sections 134(a) and 136 of the Legislative Reorganization Act of 1946, 2 U.S.C. 190b and 190d, and 41 Op. Attny. General 221, 225-229 (1955).

On June 18, 1973, Chairman Nassikas responded to Senator Hart's requests by indicating in a letter that the members of the Federal Power Commission would testify before his Subcommittee on the indicated date, *i.e.* June 26, 1973. The Commission also stated that it sought to comply with the request for the producer data as fully as possible without violating the conditions of confidentiality by which the data had been obtained. In this regard, the Commission submitted composited data, prepared especially for the Subcommittee, identifying the ratio of gas reserves controlled by the top four, eight, and twenty producers in each production area of the nation.² The Commission emphasized that if the information so supplied was further broken down to reveal the exact amount of reserves held by each production company and the exact geographical location of such reserves, and such data was made public, adverse competitive effects and inhibition of exploration efforts might result, as well as a violation of the September 12 order. It was further emphasized that such producers would then be extremely reluctant to divulge such information to the Commission in the future, thus hampering the Commission's regulatory function.³

On June 21, 1973, Chairman Philip A. Hart, acting on behalf of the full Subcommittee, issued a *subpoena duces tecum* directing that Chairman Nassikas appear before the Subcommittee on June 26, 1973, and bring with him at that time all of the following material:

1. All memoranda, documents, and writings of any nature whatsoever in the possession, custody, or control of the Federal Power Commission or any member or employee thereof referring or relating to FPC Order updating nationwide investigation in Docket No. R-405 dated September 12, 1972.

2. All workpapers and composites resulting from material received in connection with reissued Docket No. R-405 dated September 12, 1972.

Since the inception of the Subcommittee's investigation, we have voluntarily complied with all requests for data to the extent permitted by our orders, rules, regulations and the provisions of the Natural Gas Act. Moreover, pursuant to the Subcommittee's request, we have made our staff members available for private interrogation by the Subcommittee's staff. The only information which has been withheld is the individual reserve data filed by producers or recorded on worksheets by staff which we have regarded as protected under the provisions of our order, the Natural Gas Act, and the Freedom of Information Act. However as reflected by the *subpoena duces tecum*, it appears that our assertion of privilege has been summarily rejected by the Subcommittee.

We recognize that this Commission is an arm of Congress and should be responsive to legitimate legislative inquiries as to matters within the ambit of our responsibility. We conclude, therefore, that it would be inappropriate for this Commission to place its Chairman in jeopardy of contempt of Congress by refusing to disclose that which is protected by our order of September 12, 1972.

We therefore modify our order of September 12, 1972, so as to authorize the Chairman to respond to the *subpoena duces tecum* served upon him on June 21, 1973, and under compulsion of congressional process, we direct the delivery to the Senate Committee on the Judiciary's Subcommittee on Antitrust and Monopoly of the data and information collected under our order of September 12, 1972, such delivery to the Subcommittee, however, being made expressly under protest and subject to the requirements of confidentiality and protection against public disclosure as set forth in our said order of September 12, 1972, unless otherwise waived by filing producers by notification to the Subcommittee.⁴ Accordingly, we authorize the delivery of the data demanded by subpoena to the Subcommittee to be held, used, or published by the Subcommittee and its staff, subject to the responsibilities of nondisclosure which are imposed by Congress in the applicable provisions of the Natural Gas Act and the Freedom of Information Act.

In so modifying our order of September 12, we would emphasize the harm and injury which may result if the confidential information demanded by the Subcommittee is released to the public. While the passage of time since the last reporting date of June 30, 1972, may have altered the competitive sensitivity of the R-405 data, we cannot so assume in the absence of evidence. Accordingly, we give express notice to the Subcommittee that public disclosure may well produce anticompetitive effects in the natural gas industry and may result in the taking of property without provision for the payment of just compensation.

² Senator Hart has never indicated why the Chairman's June 18 response did not fulfill the legislative purposes of the Subcommittee's inquiry.

³ Cf. *Electric Bond & Share Co. v. S.E.C.*, 303 U.S. 419 (1938); *Rovario v. U.S.*, 353 U.S. 53 (1957).

⁴ *Supra*, p. 2.

In issuing this order, we further recognize that the procedural and substantive due process rights of citizens of the United States are placed in jeopardy. The time constraint imposed by the Subcommittee precludes any meaningful notice to those whose property rights are being affected, and any real opportunity on their part to be heard prior to entry of this order and prior to the disclosure now demanded by the Subcommittee.⁵

It is equally clear that public disclosure on June 26, will result, in the absence of waiver by filing producers, in immediate and irreparable injury to those who have filed confidential information with us in that, by reason of public disclosure, the proprietary value of the information will be destroyed.

This order is final and effective upon issuance. In the absence of restraint by a court of competent jurisdiction, the Subcommittee's subpoena will be honored on June 26, 1973, at 10:00 o'clock, A.M., Eastern Daylight Time.

The Secretary is directed to give immediate telegraphic and telephonic notice of this order to the Subcommittee and to all respondents.

The Commission finds. Our order of September 12, 1972, in this docket is hereby modified as provided above.

By the Commission. Commissioners Moody and Boone concurring, filed a separate statement appended hereto.

(SEAL)

KENNETH F. PLUMB, *Secretary.*

Reliability of Electric and Gas Service, Docket No. R-405

Moody and Boone, Commissioners, Concurring:

Today's order, without notice or opportunity for hearing, abridges the constitutional rights of United States citizens, and property entrusted to us will be taken, without compensation, on Tuesday of next week. Because of the time constraints imposed by the Subcommittee, those who stand aggrieved by our order are denied their rights of rehearing and judicial review of this order.

We concur in the issuance of this order only because the alternative to issuance is to place the Chairman of this Commission in jeopardy. If we adhere to the terms of our September 12, 1973, order, Chairman Nassikas cannot obey the Subcommittee's subpoena without violating that order, and thereby rendering himself liable to prosecution under Section 21 of the Natural Gas Act. Nor can he disobey the subpoena without liability for contumacious conduct. We cannot, in good conscience, suffer this result to be visited upon a dedicated public servant who has sought only to serve the public interest, and who has done so with honor and distinction.

This Agency is being compelled, by subpoena, to make public that which was filed with us under a promise of confidentiality. The promise was ours, as delegates of the Congress, to make under the Freedom of Information Act¹ and the Natural Gas Act.² What Congress granted to this Commission should not, in our judgment, be abrogated by a Subcommittee. The information given is property, recognized by the Courts as inherently valuable. Its value lies in confidentiality, and it is entitled to protection from unauthorized disclosure.³

The issue here is not whether certain information should or should not pass into the public realm, because, for all we know, the R-405 data may no longer be deserving of protection. The issue is one of procedural and substantive due process. Are not the owners of the property here involved entitled to notice and an opportunity for hearing before their rights are affected? And are not those threatened with summary deprivation of their property entitled to establish their right to just compensation? Whatever the legislative needs of the Subcommittee, those needs should not be served in such a manner that due process is ignored.

In a larger sense, the issue here is whether the government can be trusted by its citizens. Our order of September 12, 1972, set up the ground rules for our data collection. If we were in error in exercising our discretion to obtain information on a confidential basis, that error could have been, and should have been,

¹ Cf. *Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Service v. Dulles*, 354 U.S. 363 (1957).

² 5 USC 552(b).

³ Section 8(b), 15 USC § 717g(b); and see *Electric Bond & Share Co. v. S.E.C.*, 303 U.S. 419 (1938).

³ *Hunter v. Shell Oil Co.*, 198 F. 2d 485 (CCA5, 1952); *Pratt v. Shell Petroleum Co.*, 100 F. 2d 833 (CCA10, 1939).

corrected on judicial review of the September 12 order itself. No error was asserted. Citizens relied upon our order. The Subcommittee now demands, by its subpoena, that the rules of the game be changed.⁴ We would conclude, therefore, that any citizen who relies upon his government to respect a promise of confidentiality should be forewarned that the promise of privacy may be unenforceable. Tax returns and census information are received from private citizens under a promise of confidentiality; do we now understand that privacy here is not what the citizenry has been told?

The issues raised by the Subcommittee's subpoena are peculiarly suited to resolution by the judiciary. There an appropriate balancing of public and private interest can be made without prejudicing the right of any concerned party, with due regard for the constitutional doctrine of separation of powers, and with proper consideration of due process. A court of competent jurisdiction has the power to issue such orders as are necessary to preserve the rights of the parties pending adjudication of the matter before it.

**FPC STAFF RELEASES REPORT ON UNCOMMITTED NATURAL GAS RESERVES,
FEBRUARY 22, 1973, DOCKET NO. R-405, RELIABILITY OF GAS SERVICE,
No. 19013**

Total uncommitted natural gas reserves available for sale in the lower 48 states as reported by 79 large gas producers declined from 4.6 trillion cubic feet at the end of 1969 to 3.4 trillion cubic feet by mid-1972, the Federal Power Commission staff reported today.

The staff report, signed by Thomas J. Joyce, Chief of the FPC's Bureau of Natural Gas, is based on information provided to the Commission by gas producers on reserves available for sale as of December 31, 1971 and June 30, 1972. The data was collected to update information on uncommitted natural gas reserves as part of the FPC's continuing investigation of the adequacy and reliability of gas supply and deliverability.

Total reserves available in the lower 48 states (Alaska and Hawaii not included) decreased from 4.6 trillion cubic feet at the end of 1969 to 3.8 trillion cubic feet as of December 31, 1971. This latter volume is equal to 1.5 percent of the proved reserves as reported for that date by the American Gas Association.

Including Alaska, uncommitted reserves available for sale on June 30, 1972, were 31.2 trillion cubic feet, compared with 6.0 trillion at the end of 1969. The substantial rise in these figures results from the addition of the Alaskan North Slope reserves, which were not included in the 1969 figures.

However, even including the North Slope reserves, the total U.S. declined from 31.6 trillion as of December 31, 1971, to 31.2 trillion on June 30, 1972.

The reserve figures, summarized in the attached tables, show a decline for non-associated gas (not in contact with, or dissolved in, crude oil in reservoirs) for both the lower 48 states and for the total U.S., including Alaska, between the end of 1969 and mid-1972.

The associated-dissolved gas reserves (those in contact with, or dissolved in, crude oil in reservoirs) available for sale remained fairly constant during the period December 31, 1969, through June 30, 1972, except for the addition of the Alaskan North Slope reserves in the total.

The report shows slight upward trends for the Federal offshore in the South Louisiana area, the Hugoton-Anadarko area, the Rocky Mountain area, the Appalachian area, California, and miscellaneous other states.

⁴ It is interesting to compare the Subcommittee's demand with the expressed intent of Congress in enacting the Freedom of Information Act. In reference to the exemption under Section (b)(4), House Report No. 125, 90th Cong., 1st Sess., at page 10 stated:

"It would also include information which is given to an agency in confidence, since a citizen must be able to confide in his government. Moreover, where the government has obligated itself in good faith not to disclose documents or information which it receives, it would be able to honor such obligations."

The House Report also referred to Section (b)(9) and noted the contentions of witnesses that disclosure of exploratory findings of oil companies would give speculators an unfair advantage over companies which spent millions of dollars for exploration. The Senate Report, No. 248, 90th Cong., 1st Sess., page 2, said: "The purpose of clause (9) is to protect from disclosure certain information which is highly valuable to several important industries and which should be kept confidential when it is contained in Government records."

Today's report results from an FPC order issued last September 12 directing 79 large natural gas producers to provide information on the gas they had available for sale as of December 31, 1971, and June 30, 1972. The Commission requested the information in order to update data on uncommitted natural gas reserves in its investigation initiated November 4, 1970, to enable it to assess the adequacy and reliability of gas supply and deliverability to meet consumer demands.

The staff report accompanies this release.

FEBRUARY 9, 1973.

Memorandum to: The Commission.

From: Chief, Bureau of Natural Gas.

Subject: Staff Report on Nationwide Investigation: Large Producer Gas Reserves Available For Sale (Docket No. R-405).

The Commission on September 12, 1972, re-issued Docket No. R-405 in order to elicit additional information to further assess the adequacy and reliability of gas supply to meet consumer demand. Responses were due by October 6, 1972. Many of the respondents filed late and 15 did not file at all. A letter was sent by the Secretary on November 15, 1972, to the non-filing companies requesting compliance. All respondents have now replied.

The reserve figures reported by the "Large Producers" are set forth on the attached tables. Table I contains Total Gas Reserves, Table II, Nonassociated Gas Reserves, and Table III, Associated-Dissolved Gas Reserves that were available for sale on the dates specified. Footnotes for the tables follow the 3 attached tables. An overall summary is shown on the following table:

AVAILABLE FOR SALE

[In trillions of cubic feet]

	Lower "48"			Total United States ¹		
	Total	Nonassociate	Associate-diss.	Total	Nonassociate	Associate-diss.
December 31, 1969-----	4.6	4.0	0.6	5.9	5.2	0.7
October 1, 1970-----	4.4	3.8	.6	6.0	5.3	.7
December 31, 1971-----	3.8	3.1	.7	31.7	4.9	26.8
June 30, 1972-----	3.4	2.8	.6	31.2	4.5	26.7

¹ Includes Alaska.

² Includes North Slope Alaska.

The inclusion of Alaskan North Slope reserves in the Total and Associated—Dissolved gas reserves in Tables I and III, masks any U.S. total trends, over the time span of the two investigations, because of the extremely large size of these reserves which were not reported in the first R-405 reserve report. Therefore, in order to see any significant U.S. trends the lower "48" figures should be used. There are slight upward trends as shown in Table I, Total Gas, for Federal Offshore in South Louisiana, the Hugoton-Anadarko Area, the Rocky Mountain Area, Appalachian Area, California, and Miscellaneous States. The upward trend in these areas, however, cannot overcome the overall downward trend in total gas on Table I for the lower "48". Even Alaska, with or without the North Slope reserves, shows a downward trend.

Table II; Nonassociated Gas, shows the same trends as Table I.

Table III, Associated—Dissolved Gas shows slight increasing trends in Federal Offshore Louisiana, Rocky Mountain Area, and Miscellaneous.

THOMAS J. JOYCE.

Attachments.

APPENDIX A

RESPONDENTS

- Amerada Hess Corporation.
 American Petrofina Co. of Texas.
 Amoco Production Company.
 Anadarko Production Company.
 Ashland Oil and Refining Company.
 Atlantic-Richfield Company.
 Austral Oil Co., Inc.
 Aztec Oil and Gas Company.
 Bass Enterprises Production Company.
 Belco Petroleum Corporation.
 Beta Development Company.
 Cabot Corporation.
 California Co., Div. Chevron Oil Company.
 Champlin Petroleum Company.
 Chevron Oil Co.
 Cities Service Company.
 Cities Service Oil Company.
 Clinton Oil Company.
 Coastal States Gas Producing Company.
 E. Cockrell, Jr.
 Colorado Oil and Gas Corporation.
 Coltexo Corporation.
 Columbia Gas Development Corporation.
 Continental Oil Company.
 Edwin L. Cox.
 Diamond Shamrock Corporation.
 Dorchester Gas Production Company.
 Exchange Oil and Gas Company.
 Forest Oil Corporation.
 General American Oil Co. of Texas.
 Getty Oil Company.
 Gulf Oil Corporation.
 Hassie Hunt Trust.
 Helmerich & Payne, Inc.
 J. M. Huber Corporation.
 Humble Oil and Refining Company.
 Hunt Oil Company.
 The Jupiter Corporation.
 Kerr-McGee Corporation.
 Lone Star Producing Company.
 Louisiana Land and Exploration Company.
 LVO Corporation.
 Mapco Production Company.
 Marathon Oil Company.
 Mobil Oil Corporation.
 Monsanto Company.
 Natural Gas and Oil Corporation.
 Northern Natural Gas Prod. Company.
 Ocean Drilling & Exploration Company.
 Petroleum Inc.
 Phillips Petroleum Company.
 Pioneer Production Corp.
 Placid Oil Company.
 Pennzoil Producing Company.
 Pennzoil United, Inc.
 Pubco Petroleum Corporation.
 The Rodman Corporation.
 Shell Oil and Gas Company.
 Signal Oil and Gas Company.
 Skelly Oil Company.
 Sohio Petroleum Company.
 Southern Natural Gas, Jt. Venture.
 Southern Union Gathering Company.
 Southern Union Production Company.
 Suburban Propane Gas Corp.
 Sun Oil Company.
 Tenneco Oil Company.
 Tennessee Gas Supply Co.
 Terra Resources Inc.
 Texaco Inc.
 Texas Gas Exploration Corporation.
 Texas Oil and Gas Corporation.
 Transocean Oil, Inc.
 The Superior Oil Company.
 Union Carbide Petroleum Corporation (Ashland).
 Union Oil Company of California.
 Union Pacific Railroad Co.
 Union Texas Petroleum.
 Warren Petroleum Corporation.

TABLE I.—TOTAL LARGE PRODUCERS PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE

[Million cubic feet at 14.73 lb/in²a and 60° F]

Area	Total proven reserves as of Dec. 31, 1969, reported by American Gas Association	Large producers reserves available for sale ¹		Total proven reserves as of Dec. 31, 1971, reported by American Gas Association	Large producers reserves available for sale ¹	
		As of Dec. 31, 1969	As of Oct. 1, 1970	As of Dec. 31, 1971	As of June 30, 1972	
South Louisiana.....	80,769,437	2,014,110	2,173,303	74,968,645	1,770,603	1,873,267
Onshore.....	56,666,983	³ 1,004,206	³ 1,117,499	47,128,723	572,157	398,830
Offshore.....	³ 24,102,454	³ 1,009,904	³ 1,055,804	² 27,839,922	1,198,446	1,474,437
Federal.....					1,159,553	1,442,685
State.....					38,893	31,752
Texas Gulf Coast ⁴	⁵ 67,540,216	1,055,974	735,236	⁵ 60,844,298	631,840	544,441
Onshore.....		597,210	494,405		311,266	344,917
Offshore.....		459,764	240,921		320,574	199,524
Federal.....					305,574	152,624
State.....					15,000	46,900
Perman Basin ⁶	29,977,869	591,927	353,087	26,622,622	445,046	318,976
Hugoton-Anadarko ⁷	36,894,586	355,542	294,963	33,299,985	42,624	54,313
Other Southwest ⁸	23,236,084	251,828	430,320	20,657,896	551,694	171,061
Rocky Mountain ⁹	17,514,030	198,569	205,620	17,087,479	241,031	264,807
Appalachian ¹⁰	6,048,395	7,463	10,846	6,588,177	10,752	11,608
Unclassified areas:						
Michigan.....	750,964	4,363	1,115	1,016,482	3,484	0
California.....	6,870,946	52,222	10,252	5,729,499	58,911	79,568
All others.....	304,165	45,482	60,002	625,194	61,853	82,470
Total, lower "48" ¹¹	269,906,692	4,578,480	2,374,834	247,440,277	3,817,838	3,400,511
Alaska ¹²	5,202,143	¹² 1,406,804	¹² 1,699,297	31,365,341	¹³ 27,822,861	¹³ 27,817,181
Total, United States..	275,108,835	5,985,284	6,074,131	278,805,618	31,640,699	31,217,692

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 MMft³.

Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the Committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, Proved Reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale" are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² AGA figures include Zone 1 offshore in onshore figures.³ Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in Docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e., Zone 1 is included in onshore). The respondents in Docket No. R-405 included only large producers. The respondents in Docket No. AR69-1 included large and certain small producers as well as pipeline companies.⁴ Consists of Texas RR District Nos. 1, 2, 3, and 4.⁵ Includes offshore reserves.⁶ Consists of Texas RR District Nos. 7-B, 7-C, 8 and 8A, and southeast New Mexico.⁷ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR District No. 10.⁸ Other Southwest includes Arkansas, eastern Oklahoma, Texas RR District Nos. 5, 6, and 9, north Louisiana and Mississippi.⁹ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and northwest New Mexico.¹⁰ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.¹¹ Does not include Alaska.¹² For total reserves: The 1,406,804 MMft³ of reserves in 1969 and the 1,699,297 MMft³ of reserves in 1970 do not include Alaska North Slope reserves. Alaska North Slope total R-405 reported gas reserves are 26,000,000 MMft³ of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1976. For non-associated reserves: The 1,275,754 MMft³ of reserves in 1969 and the 1,572,254 MMft³ of reserves in 1970 do not include Alaska North Slope reserves. For associated dissolved reserves: The 131,050 MMft³ of reserves in 1969 and the 127,043 MMft³ of reserves in 1970 do not include Alaska North Slope reserves.¹³ Includes Alaskan North Slope reserves of all producers.

TABLE II.—TOTAL LARGE PRODUCER PROVED NONASSOCIATED NATURAL GAS RESERVES AVAILABLE FOR SALE
[Million cubic feet at 14.73 lb/in²a and 60 F^b]

	Total proven reserves as of December 31, 1969, reported by American Gas Association	Large producers reserves available for sale ^c		Total proven reserves as of December 31, 1971, reported by American Gas Association	Large producers reserves available for sale ^c	
		As of December 31, 1969	As of October 1, 1970		As of December 31, 1971	As of June 30, 1972
South Louisiana	66,602,555	1,662,668	1,812,726	62,543,880	1,490,827	1,660,762
Onshore	46,671,165	^d 781,038	^d 936,775	39,066,971	342,441	277,396
Offshore	^e 19,931,390	^d 881,630	^d 875,951	23,476,909	1,148,386	1,383,366
Federal					1,111,400	1,353,273
State					36,986	30,093
Texas Gulf Coast ^f	^g 50,791,040	944,294	648,047	^d 46,081,948	590,129	502,927
Onshore		424,530	408,926		269,589	303,403
Offshore		459,764	239,121		320,540	199,524
Federal					305,540	152,624
State					15,000	46,900
Permian Basin ^h	16,843,155	583,594	342,811	15,299,604	339,690	215,728
Hugoton-Anadarko ⁱ	34,290,945	350,271	384,741	30,979,944	33,877	50,623
Other Southwest ^j	16,253,844	142,949	323,046	14,544,882	433,135	64,384
Rocky Mountain ^k	15,215,440	188,023	193,745	14,788,864	116,640	132,701
Appalachian ^l	3,996,851	3,592	5,864	4,042,767	10,550	11,425
Unclassified areas:						
Michigan	73,268	3,725	200	179,479	3,484	0
California	2,857,084	48,616	7,150	2,342,432	36,370	57,300
All others	66,737	45,240	59,316	182,396	47,546	62,521
Total, lower "48" ^m	206,990,919	3,972,972	3,777,646	190,986,196	3,102,178	2,758,371
Alaska ⁿ	4,882,363	^d 1,275,754	^d 1,572,254	4,967,421	^d 1,780,992	^d 1,780,992
Total, United States	211,873,282	5,248,726	5,349,900	195,953,617	4,883,170	4,539,363

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 MMft³. Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the Committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, Proved Reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale" are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² AGA figures include Zone 1 Offshore in Onshore figures.

³ Reserve data divided between Onshore and Offshore at coastline. South Louisiana reserve data reported in Docket No. AR69-1 divides Onshore and Offshore on basis of State and Federal Domain (i.e., Zone 1 is included in Onshore). The respondents in Docket No. R-405 included only large producers. The respondents in Docket No. AR 69-1 included large and certain small producers as well as pipeline companies.

⁴ Consists of Texas RR District Nos. 1, 2, 3 and 4.

⁵ Includes Offshore reserves.

⁶ Consists of Texas RR District Nos. 7-B, 7-C, 8 and 8A and Southeast New Mexico.

⁷ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR. District No. 10.

⁸ Other Southwest includes Arkansas, Eastern Oklahoma, Texas RR. District Nos. 5, 6 and 9, North Louisiana and Mississippi.

⁹ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah and Northwest New Mexico.

¹⁰ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

¹¹ Does not include Alaska.

¹² For total reserves: The 1,406,804 MMft³ of reserves in 1969 and the 1,699,297 MMft³ of reserves in 1970 do not include Alaska North Slope reserves. Alaska North Slope total R-405 reported gas reserves are 26,000,000 MMft³ of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1976. For non-associated reserves: The 1,275,754 MMft³ of reserves in 1969 and the 1,572,254 MMft³ of reserves in 1970 do not include Alaska North Slope reserves. For associated dissolved reserves: The 131,050 MMft³ of reserves in 1969 and the 127,043 MMft³ of reserves in 1970 do not include Alaska North Slope reserves.

¹³ Includes Alaskan North Slope reserves of all producers.

TABLE III.—TOTAL LARGE PRODUCER PROVED ASSOCIATED DISSOLVED NATURAL GAS RESERVES AVAILABLE FOR SALE

[million cubic feet at 14.73 lb/in²a and 60° F¹]

Area	Total proven reserves as of December 31, 1969, reported by American Gas Association	Large producers reserves available for sale ¹ As of December 31, 1969	As of October 1, 1970	Total proven reserves as of December 31, 1971, reported by American Gas Association	Large producers reserves available for sale ¹ As of December 31, 1971	As of June 30, 1972
South Louisiana	14,166,882	351,442	360,577	12,416,106	279,776	212,505
Onshore	9,995,818	³ 223,468	³ 180,724	8,053,093	265,353	121,434
Offshore	2,417,064	³ 128,274	³ 179,853	2,4,363,013	50,060	91,071
Federal					48,153	89,412
State					1,907	1,659
Texas Gulf Coast ⁴	⁵ 16,734,649	112,680	87,279	⁵ 14,750,807		
Onshore		112,680	85,479		41,677	41,514
Offshore		0	1,800		34	0
Federal					34	0
State					0	0
Permian Basin ⁶	13,089,093	8,333	10,276	11,286,103	105,356	103,248
Hugoton-Anadarko ⁷	2,462,994	5,271	10,222	2,127,329	8,817	3,690
Other Southwest ⁸	6,624,707	108,879	107,274	5,719,148	118,559	106,677
Rocky Mountain ⁹	2,056,895	10,546	11,875	2,023,868	124,391	132,106
Appalachian ¹⁰	258,602	3,871	4,982	260,537	202	183
Unclassified areas:						
Michigan	82,186	638	915	184,541	0	0
California	3,826,608	3,606	3,102	3,175,368	22,541	22,268
All others	11,248	242	686	196,045	14,307	19,105
Total lower "48" ¹¹	59,313,864	605,508	597,188	52,139,853	715,660	584,664
Alaska ¹²	319,780	¹² 131,050	¹² 127,043	¹² 26,397,920	¹² 26,041,869	¹² 26,036,189
Total, United States	59,633,644	736,558	724,231	78,537,773	26,757,529	26,678,329

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 MMft³. Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the Committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, Proved Reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale" are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² AGA figures include Zone 1 Offshore in Onshore figures.

³ Reserve data divided between Onshore and Offshore at coastline. South Louisiana reserve data reported in Docket No. AR69-1 divides Onshore and Offshore on basis of State and Federal Domain (i.e., Zone 1 is included in Onshore). The respondents in Docket No. R-405 included only large producers. The respondents in Docket No. AR69-1 included large and certain small producers as well as pipeline companies.

⁴ Consists of Texas RR District Nos. 1, 2, 3 & 4.

⁵ Includes Offshore reserves.

⁶ Consists of Texas RR District Nos. 7-B, 7-C, 8 and 8A and Southeast New Mexico.

⁷ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR District No. 10.

⁸ Other Southwest includes Arkansas, Eastern Oklahoma, Texas RR District Nos. 5, 6 and 9, North Louisiana and Mississippi.

⁹ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah and Northwest New Mexico.

¹⁰ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

¹¹ Does not include Alaska.

¹² For total reserves: The 1,406,804 MMft³ of reserves in 1969 and the 1,699,297 MMft³ of reserves in 1970 do not include Alaska North Slope reserves. Alaska North Slope total R-405 reported gas reserves are 26,000,000 MMft³ of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1976. For nonassociated reserves: The 1,275,754 MMft³ of reserves in 1969 and the 1,572,254 MMft³ of reserves in 1970 do not include Alaska North Slope reserves. For associated dissolved reserves: The 131,050 MMft³ of reserves in 1969 and the 127,043 MMft³ of reserves in 1970 do not include Alaska North Slope reserves.

¹³ Includes Alaskan North Slope reserves of all producers.

FEDERAL POWER COMMISSION,
WASHINGTON, D.C. August 1, 1973.

Mr. WEBSTER P. MAXSON,
Executive Director,
Federal Power Commission,
Washington, D.C.

DEAR MR. MAXSON: This statement sets forth my reasons for believing that I have not violated the Commission's Order of September 12, 1972, in Docket No. R-405:

1. The Commission's Order did not instruct me not to dispose of the reports.¹
2. In the previous R-405 Order, the reports were returned to the respondents.
3. The purpose of the Order was to gather information which was to be reported in composite Form. See Appendix B-1, Question D of the September 12, 1972 Order (Exhibit I).
4. I had no possible motive or gain for returning or otherwise disposing of the documents. It is obvious, therefore, that I was following what I believed to be the correct procedure in returning or disposing of the reports.

In the previous R-405 Order, (See Exhibit II) the respondents were directed to either bring the filings in person to the investigating officer in the field or in the FPC Washington Office by appointment. Those unable to appear were afforded the alternative of mailing in their reports. According to Mr. Tourtellotte's letter, part of the previous R-405 Order of November 20, 1970 (Exhibit II) "Reports will be *kept* in a confidential status by the investigating officer in accordance with the provisions of Section 8 (b) of the Natural Gas Act. Records of the volumes of available reserves will be maintained only in composite form with no identification as to the controlling producer."

When I received my instructions² from the Chief, Bureau of Natural Gas to handle the R-405 Order of September 12, 1972 (See Exhibit I), these instructions were to treat it in the same way as the previous R-405 of November 20, 1970. Upon further discussion two modifications were decided upon. (1), information on Federal and State offshore areas was to be detailed, and (2), "unlike the previous filing all responses will be made at the Federal Power Commission Offices in Washington, D.C." Mr. Albares, my immediate superior was at these meetings and can testify as to the correctness of my statement. Also Miss Powell, the statistical assistant who assisted me in preparing the composite report can testify that it was my understanding from the beginning that the documents were to be returned or disposed of.

It is important to note here that exceptions or changes to the previous order were carefully spelled out. Specifically, the order did not say that the reports would not be returned to the companies as was done in the previous order even though the other changes were carefully noted and excepted. Further, essentially the same forms were used to report the data. I participated in the drafting of the order and at no time did I get the impression that the reports were to be retained. The September 12, 1972 Order merely states, and almost identical to the November 20, 1970 Order except for the use of the words "kept" and "maintained", which are in my judgement synonymous, that "individual company information received as a result of this continued investigation will be *Maintained* in a confidential status in accordance with provisions of Section 8(b) of the Natural Gas Act. 15 U.S.C. 717 g(b), and the Freedom of Information Act, 5 U.S.C. 554(b) (4) and (9).

Based on my understanding that the study was to be done the same as the previous R-405, and based on the fact that at no time was I informed to the contrary-wise, I assumed I was to return the reports to the respondents after the purpose of the order was fulfilled, i.e. the publishing of the composite report. I also state that many of the respondents had the same understanding that I did and upon discussion with them upon returning the reports, they indicated (except for Exxon which requested the return of their report) that destroying the reports would be a satisfactory substitute for returning them (See letter from Texaco, indicating their request to return or destroy, Exhibit III). In those cases which I had a personal contact with the company representatives, informal agreement was made to either return or dispose of the reports.

¹ The responses of the companies cannot technically be called filings with the Commission in the usual sense. They were not filed with the Office of the Secretary and logged but were sent in or brought directly to me as investigating officer.

² The necessity for treating the data in the new R-405 in the same manner is obvious when you consider that, in order to be the most useful, the data obtained from the new R-405 must be directly comparable to that obtained from the original R-405.

As a further indication that this was not an uncommon practice with this kind of material I submit that in the South Louisiana Area Rate Proceeding AR69-1, et al, that the Commission issued an order on March 17, 1970 (Exhibit IV) in which they requested information on uncommitted proved reserves be filed with the accounting firm of Arthur Young and Company, that the staff had access to these individual filings and copied data therefrom of individual company information, and that said information was destroyed. In volume 42, Official Stenographers Report in the matter of:

Area Rate Proceeding, et al (Offshore Southern Louisiana Federal Domain and Disputed Areas), Docket No. AR69-1, et al, Held at Washington, D.C. Wednesday October 14, 1970. Pages 5401 to 5558.

I stated under oath, on cross-examination (P. 5430 lines 23, 24, 25) "I destroyed all my work papers because they contained confidential information, and this number was on these work papers." Further, Mr. Mattingly, staff attorney stated (Page 5433 lines 23, 24, 25 and Page 5434 lines 1, 2, 3, 4, 5, and 6) "Your Honor, I would have to object to that question. That deals with the individual analysis made for the companies based on the staff audit and the papers that were prepared during the course of that. Those work papers have all been destroyed pursuant to the Commission's order, any data based on any work papers or data taken therefrom based on the staff's field audit are to be treated as confidential, and I think clearly this type of information falls within that category."

In the prepared testimony of Victor H. Zabel, (Exhibit V) Page 4, referring to the staff field audit of the available for sale reserves, Mr. Zabel states "no, the notes and calculations were either left with the company or destroyed in the presence of company representatives."

In further support it should be noted that in other orders dealing with confidential reserve data to be retained in Commission Files the Commission stated in detail how data is to be retained:

The Commission Order Directing "Study and Analysis of Natural Gas Reserves and Prescribing Procedures For the National Gas Survey" issued December 21, 1971 some nine months prior to the issuance of the order I am alleged to have violated (Exhibit VI II, A) states:

"Requiring that all company-furnished data will be evaluated at the companies' offices with no data or worksheets leaving the premises. All independent reserve team generated worksheets will be preserved in the companies' offices until July 1, 1974."

The Commission modified this order on March 17, 1972 (Exhibit VII) Paragraph B, "Worksheets generated by the independent reserve teams in the course of their independent reserve estimations shall be returned to the Commission's Washington, D.C. offices and there *preserved* in the custody of the Technical Director of the National Gas Survey, subject to further order.

At the time the documents were given to Mr. Vivien with a request made to dispose of them (note that I did not "order" him to do it, I requested it. Mr. Vivien does not work for me or in the Bureau of Natural Gas and was perfectly free to refuse to do so), we were in the process of preparing to move, so I reasoned that this would be a good time to carry out what I believed to be my orders, to return or dispose of the documents, to prevent the possibility of them being lost and subsequently revealed thus exposing me to the penalties under the Natural Gas and Freedom of Information Acts. I discussed this with Mr. Edward A. Albares and he was aware of my actions.

According to your Report of Investigation, Mr. Wilson reported to Haskell Wald that his review of the Commission Order indicated that the documents should not be destroyed (It should be noted that Mr. Wilson was not familiar with the terms of the November 20, 1970, R-405 Order) and that shortly after February 27, 1973, He (Wilson) and Wald met with Thomas J. Joyce, Chief of the Bureau of Natural Gas. I assume that his mistaken report that the filings were destroyed was reported to Mr. Joyce, but nothing was said to me or Mr. Albares about it. In other words no instructions or additional instructions of any kind about the disposition of the reports was given to either of us, even though this was several weeks (4) before the senate investigation.

If I have erred in any respect it is at most an error of judgment arising from incomplete direction from the unclear language in the Commission orders or instructions from my superiors.

I sincerely regret any embarrassment which any action on my part may have caused the Commission, its Chairman and my associates and superiors. In my humble judgement any such embarrassment is the direct result of a deliberate attempt at character assassination of the Commission by persons both within and without. I am no part of that group and sincerely regret that any action on my part may have unwittingly aided them.

In my heart I am satisfied that I have committed no intentional wrong. If you find that I acted negligently or carelessly I am confident that I will be treated in exactly the same manner as anyone else who has so acted.

Finally, I feel I have already been unfairly punished by the newspaper reports, assassinating my character and professional standing, and submitting me to the humiliation of public accusation and the ordeal of five hours of cross-examination by the staff of the Hart Subcommittee. There is also the actual damage done to the health and happiness of myself and my family, and finally the withholding of the recognition of my sustained superior performance award and the \$350 cash award I was to receive.

LAWRENCE R. MANGEN.

Witnessed my hand and seal this 1st of August 1973.

MAMIE B. SCOTT.

My Commission Expires Nov. 14, 1975.

To the best of my knowledge the events and circumstances that I am familiar with in this statement appear to be true and correct.

EDWARD A. ALBARES.

Witnessed my hand and seal this 1st day of August 1973.

MAMIE B. SCOTT.

My Commission Expires Nov. 14, 1975.

AUGUST 17, 1973.

Mr. WEBSTER P. MAXSON,
Executive Director, Federal Power Commission,
Washington, D.C.

DEAR MR. MAXSON: This is an additional statement on my behalf, supporting my reasons for believing that I have not violated the Commission's Order of September 12, 1972, in Docket No. R-405. Although the 10-day time period has expired, additional material has been found which should be brought to your attention.

Appendix A to this statement is a letter, dated June 3, 1970, sent to the respondents in Docket No. AR69-1, Area Rate Proceeding, Southern Louisiana Area, the first proceeding in which Available for Sale Reserves were reported to the Commission, signed by Stephen A. Wakefield and Richard V. Mattingly, Jr., Commission Staff Counsel for this case.

You will note that the letter points out that reports whether delivered to the FPC offices or brought to staff representatives in the field were to be returned to the respondents. I was the staff member who was appointed to receive and record these numbers for compositing as my sworn testimony and cross-examination in this case shows.

Appendix B to this statement is a memorandum sent by the Head, Gas Supply Section, Mr. Edward A. Albares, to Stephen Wakefield in which the procedures for a staff audit are detailed. In this memorandum the destruction of staff work-papers was set out as part of the procedure.

You will note that copies of this memorandum went to the General Counsel, Gordon Gooch and to the Chief of the Bureau of Natural Gas, Thomas J. Joyee among others. The procedure was approved.

I submit that the procedure used in this case set the precedent for the handling of the material in the investigations of "Available for Sale" gas in Docket No. R-405 which followed. These procedures were, essentially:

1. Receipt of the data either by appointment in the field or in FPC offices (Specifically changed in the Order of September 12, 1972) to receipt in the Washington Office.
2. Preparation of a composite report of some kind.
3. Return of the individual company reports to the respondents (or destruction in lieu of return).

The orders initiating these procedures used almost identical language. The procedures initiated in Docket No. AR69-1 were followed in the initial R-405, November 20, 1970, and were followed by me in the second R-405, September 12, 1972.

Sincerely yours,

LAWRENCE R. MANGEN.

Enclosures.

Subscribed and sworn to me this 17th day of August 1973.

MAMIE B. SCOTT.

My Commission Expires Nov. 14, 1975.

Exhibit A

FEDERAL POWER COMMISSION,
Washington, D.C., June 3, 1970.

In reply refer to: OGC, Docket No. AR69-1, Area Rate Proceeding, Southern Louisiana Area.

To the party addressed:

GENTLEMEN: Pursuant to the Commission's order of March 17, 1970 requiring reporting of specified reserves data, you completed and forwarded to Arthur Young & Co. a questionnaire relating to the volumes of uncommitted proved reserves which you controlled in the Southern Louisiana area as of year end 1968 and year end 1969. This information was composited by Arthur Young & Co. and the questionnaire returned to you. The Commission staff is undertaking to review each of these questionnaires in order to verify the composite of Arthur Young & Co. The company data shall be handled under the strictures of absolute confidentiality, as prescribed in the Commission's order. Only a record of the volumes reported will be retained by the staff; no records will be made as to the identity of the party controlling such volumes.

To expedite our procedures, it would be greatly appreciated if you would forward your report by mail or have it personally delivered to one of the undersigned at our offices prior to June 16, 1970. Upon transcription of the volumes, the report will be immediately returned to you.

As a convenience to those not wishing to send their data to Washington, we have arranged for members of the Commission staff to be available in Room 2214, Federal Building, 515 Rusk Avenue in Houston, Texas, commencing at 9:00 a.m. on June 17, 1970 for transcription of the volumes from questionnaires at that time. Subsequent to that date, the staff intends to make field audits of selected companies for the purpose of reviewing the underlying data and the methods and procedures through which the uncommitted reserves volumes were determined.

Very truly yours,

RICHARD V. MATTINGLY, Jr.,
STEPHEN A. WAKEFIELD,
Commission Staff Counsel.

Exhibit B

[Exhibit B may found in Mr. Albares testimony.]

Senator KENNEDY. Would you like to just summarize it very briefly here?

Mr. MANGEN. I believe I had not violated the Commission's order in docket No. R-405 because, one, I do not believe the Commission's order instructed me not to dispose of the reports. Two, in the previous R-405, the reports were returned to the respondents. Three, the purpose of the order was to gather information which was to be reported in composite format, and I so performed this duty. I have no possible motive or gain for returning or otherwise disposing of these documents, and it is obvious, therefore, that I was following what I believed to be the correct procedure in returning or disposing of these reports, and I would like to make one further point.

The response of these companies cannot technically be called filings with the Commission in the usual sense. They were not filed with the Office of the Secretary. There were sent to me as the investigating officer, and I believe them to be the property of the companies who sent them for our use, and I returned them to them at their request. And some of the companies asked that, in lieu of returning them, the documents to them, that I destroy them because they had copies of their own, and they did not want to take the chance on these things getting lost in the mail.

Senator KENNEDY. Now, can you tell us the present status of the proceedings against you?

Mr. MANGEN. I was allowed 10 days from approximately July 29, 1973, to answer the charges or the show cause order of why I should not be charged. And I asked Mr. Maxson once what was being done, and to this date, I have not received any reply as to what is being done on these charges.

Senator KENNEDY. So, they asked you to respond in 10 days, and you have been trying to get at least a reaction from them for 2 months?

Mr. MANGEN. The only reaction I got was they are working on it.

Senator KENNEDY. And, what has been the impact on your assignment of a workload?

Mr. MANGEN. Well, I believe that under normal conditions my workload would be somewhat heavier, because R-405 was issued again, and normally that would have been done by me again, and I did not receive that assignment.

In addition, I believe I could carry a larger workload than I have received, although I do agree with Mr. Allen that he has not treated me in any different manner, and also with Mr. Albares, who said he has not treated me in any different manner.

Senator KENNEDY. You just want to work?

Mr. MANGEN. Yes, sir.

Senator KENNEDY. I see.

Has the Chairman of the Commission indicated to you directly or indirectly any conclusions he has reached about this case?

Mr. MANGEN. The Chairman has not spoken to me or even looked at me since this thing has happened. I went to a meeting of the Federal Power Commission on another matter on which I was supposed to represent a staff position, and I was taken out from the meeting by Mr. Maxson, with an indication that I was not welcome at the meeting.

Senator KENNEDY. What did you interpret that to mean?

Mr. MANGEN. That I was persona non grata in the eyes of the Chairman.

Senator KENNEDY. But he has not indicated to you personally, or either directly or indirectly, his attitude about this?

Mr. MANGEN. No, sir.

Senator KENNEDY. You seem to base your defense of these charges on prior practices followed in AR-69-1 and the original R-405 survey. Were you personally involved in either of those proceedings?

Mr. MANGEN. Yes, sir. I was involved in AR-69-1 as the supervising staff witness on gas supply.

Senator KENNEDY. And how were the work papers and the documents relating to that proceeding disposed of when your work on the survey was completed?

Mr. MANGEN. In agreement with the procedure that was outlined in Mr. Albares' testimony, which was coordinated through Mr. Wakefield, who was the counsel assigned to this case, I destroyed the documents that I had finished with after my testimony was filed for the public record.

Senator KENNEDY. Was there anyone present?

Mr. MANGEN. Mr. Albares and one other person was present, but unfortunately I do not recall who that person was.

Senator KENNEDY. Would anyone else in the Commission or BNG have known that the documents were destroyed?

Mr. MANGEN. I am sure that it was general knowledge among the people in at least the section that I am in that the documents were destroyed. It was common knowledge.

Senator KENNEDY. Well, was there ever a public hearing where that came out?

Do you know?

Mr. MANGEN. I testified under oath in the hearing that I destroyed the documents after my testimony.

Senator KENNEDY. When was that?

Mr. MANGEN. Excuse me a second and I will look it up.

Senator KENNEDY. Well, approximately when?

You can put it in the final transcript.

Mr. MANGEN. It was Wednesday, October 14, 1970. I have a transcript of that particular trial.

Senator KENNEDY. So in 1970 you testified in a public hearing that that was how you disposed of the documents?

Mr. MANGEN. Yes, sir. If you wish, Senator, I can give you the page references in this transcript?

Senator KENNEDY. I think we have got those.

Would Mr. Maxson have had any reason to know that those documents were destroyed?

Mr. MANGEN. I have no direct knowledge of any reason why he should not or should have. But the normal procedure in the Commission was, you direct a memo such as the one we sent to Mr. Wakefield, and I would assume the General Counsel's office, if they had any problem with it, would have taken it up with the Commission.

Senator KENNEDY. Who in the Commission proposed burning as a method of disposing of documents?

Mr. MANGEN. This procedure was established in prehearing conference and technical meetings and meetings with the company representatives, and the representatives from the General Counsel's office, and the technical staff, on how to handle these documents that these companies considered to be so sensitive.

Senator KENNEDY. When were those? I mean, were those just general meetings, or do you recall specifically?

Mr. MANGEN. Some were general and some were specific. We held one down in Houston in 1970, I believe June, in which these things were finally set out. At that time, I was down there as the designated staff representative to receive this confidential information which they had submitted to a third party. The companies had refused to even file it with the Commission, but had submitted it to an auditing firm which then composited the information, and then reported it through their own witness.

Now, the staff said this was not satisfactory, and we needed to audit these records, so I was selected as the man who would supervise the auditing procedure. We were down there to meet with the companies, and they were to bring these documents in, and I was to extract the data that I thought I needed and initial and date the documents so that my people later on would know when they looked at these documents in the field that this was the same thing that I had looked at.

Senator KENNEDY. Now, were you involved with the original R-405 survey?

Mr. MANGEN. Only peripherally, Senator. John Williams, in working with the material, had some difficulty in coordinating some of the materials geologically, and he came to me for some assistance, and I did help him align the stuff in a geographic manner so he would be able to report it correctly. But that is the only direct contact I had on the first R-405.

Senator KENNEDY. Do you know how the documents were disposed of following that procedure?

Mr. MANGEN. The documents that the companies submitted in response to the order were returned immediately to the companies, or if they preferred to send them to the Federal Power Commission. It stated in the order that they would then be returned as soon as the numbers were composited.

Now, what has happened to the composites, I have no idea.

Senator KENNEDY. You have not been able to locate them?

Mr. MANGEN. No one seems to know what happened to them, Senator.

Senator KENNEDY. So when you approached the task of supervising the R-405 survey, you believed the destruction of the information at the end of the survey was standard operating procedure?

Mr. MANGEN. Actually, Senator, I believed the return of the documents was the proper procedure when I began the survey, but in talking to the company representatives who personally brought the documents to me at my office at the Federal Power Commission, they indicated to me that they had copies of these documents of their own, and that there would be no need for me to send them back and that I could dispose of them in such a way that the confidentiality would be protected.

Senator KENNEDY. You had a conversation with the companies themselves to that effect?

Mr. MANGEN. Yes, sir.

Senator KENNEDY. Do you remember which ones?

Mr. MANGEN. I believe Mr. Richard Generally, who represented Forest Oil Co., Mr. Sherman Poland, who represented the Humble Oil Co., and I believe Mr. Don Anette with Texaco, Inc. There were some others, but I cannot recall the names.

Senator KENNEDY. But were you ever given any instructions or guidelines to the contrary, that they should be returned or destroyed?

Mr. MANGEN. To the best of my recollection, when we had our beginning meeting there in Mr. Jeyee's office with Mr. Albares being present, and Mr. George Lewnes, who represented the General Counsel's Office, the question was asked: "How are we going to handle this material," and the answer was just as we did previously.

Now, that is not a direct quote. That is my paraphrase of what I believe to have been said.

Senator KENNEDY. What do you think that meant?

Mr. MANGEN. That meant to me that I was to return the documents to the companies.

Senator KENNEDY. Did any companies refuse initially to respond to the survey on the basis that they had no reserves?

Mr. MANGEN. Several companies responded with a letter stating that they had no reserves, Senator. Some of the companies that did not respond I contacted by telephone, and they said they had no reserves, and I requested them to file a letter with us indicating such, and they so did.

Senator KENNEDY. Did the letters themselves back up what they had told you on the phone?

Mr. MANGEN. Yes, sir.

Senator KENNEDY. Were there any examples where the companies had indicated to you orally that they did not have any reserves and then they ended up having them when they wrote?

Mr. MANGEN. There was one instance in which a company representative indicated to me on my telephone call which took place in about October of 1972, that they did not believe they had any, but I found out later they had subsequently filed, but the file had never gotten to me as it properly should have. And at that time, at the time I decided that since they had said they did not have any, and it was a minor company, that we would go ahead, since the Commission wanted to get this report out as soon as possible, that we would go ahead and do it without that particular company's file.

Senator KENNEDY. Was there any checking done on any of the information supplied by the companies, or did you just accept what they told you?

Mr. MANGEN. We accepted at face value what the companies said, with a minor check of checking any arithmetic within the forms, and also in one instance it was obvious to me after I had seen my preliminary tabulation that there was too much reserves being reported in one area of the country. And I investigated those companies that reported in there, and it turned out that this one company, which was Monsanto, had misstated their reserve figure by a factor of 1,000 by reporting it in the wrong volume units.

And I contacted their company representative, and he indicated agreement that I would make a correction on my copy here in Washington, and initial it and put his name down and he would agree to that.

Senator KENNEDY. That was a mathematical error?

Mr. MANGEN. Yes, sir.

Senator KENNEDY. Now, Mr. Kofkin testified yesterday he spoke with Mr. Zabel on February 27 and was told the documents he requested were destroyed. And Mr. Zabel then testified that he may have turned that call over to you. Do you recall speaking to Mr. Kofkin, and can you describe, to the best of your recollection, the details of that conversation?

Mr. MANGEN. The first time I spoke to Mr. Kofkin, I believe the call was referred to me by Mr. Zabel, as he indicated, and in that conversation I indicated to Mr. Kofkin that these documents were not to be used by him because they were to be kept confidential and that I, as the investigating officer, was subject to penalties. I may not have said this directly, but this is what my belief was, that I was subject to penalties under law if I let anybody see them, these reports, who was not authorized, and I said that they should be destroyed or should have been destroyed by now, or something to that effect, and he probably misunderstood.

Senator KENNEDY. Why did you say they should be destroyed?

Mr. MANGEN. Because I had finished the purpose for which the reports had been filed with the Commission, and I wanted to get the documents off my hands, because that is a very large responsibility, to be responsible for a large pile of confidential documents and have no real way of keeping them safe except by locking them in a desk.

Senator KENNEDY. But they had not been destroyed at that point?

Mr. MANGEN. At that point, no, sir, they had not been destroyed.

Senator KENNEDY. Did you think he had any right to those documents?

Mr. MANGEN. Only if the Commission so ordered, Senator.

Senator KENNEDY. Well, what did he represent to you at that time, that he did have authority?

Mr. MANGEN. That he would like to have the documents so that he could do some study.

Senator KENNEDY. And do you think that his request, therefore, was legitimate or illegitimate?

Mr. MANGEN. I had no real feeling about it one way or the other. It was just a request that I had to turn down because I did not believe he had a right to the documents as the situation existed at that time.

Senator KENNEDY. Where did you keep these materials?

Mr. MANGEN. When they were not in the possession of Ms. Powell or Mr. Pavetto, I had kept them locked in my desk.

Senator KENNEDY. Was there a safe handy?

Mr. MANGEN. No, there was no safe handy.

Senator KENNEDY. Well, did you have access to a safe?

Mr. MANGEN. Yes. I could have taken them down the hall several hundred feet to a safe and put them in there, but it would have been a little bit awkward working with the documents if we did that all the time.

Senator KENNEDY. But did you have any instructions about keeping that material in a safe?

Mr. MANGEN. No, sir.

Senator KENNEDY. When did you next get a request from OE for that data?

Mr. MANGEN. I got a telephone call from Tom Joyce. I do not exactly recall the date of it, in which he indicated that the Office of Economics had had a meeting with him, and they had come to some compromise by which he believed the confidentiality could still be maintained, but we could help them in their study. But I do not recall the date.

Senator KENNEDY. Well, Dr. Wald testified yesterday that within a week of the 27th of February, he met with Mr. Joyce to request the composites, and then at that time Mr. Joyce called you. Mr. Pavetto has testified that it took him less than 2 days to do the composite, and the data was not transmitted to OE until March 21.

Can you explain the delay?

Mr. MANGEN. Yes, sir. After the documents had been prepared I took them to our typist and put them in her in-box for preparation of this composite. And in the just normal procedure, it just took that long.

Now, normally it would take maybe 2 or 3 days at the most for the typist to get to them. Now, we had one typist who was serving the needs of 20 people, and you can imagine her workload was rather heavy, so maybe that explains the delay of 2 or 3 days.

And as soon as this stuff was finished, I took it and sent it through the mail.

Senator KENNEDY. You mean it takes up to 3 weeks to get things typed up down there?

Mr. MANGEN. I said 2 or 3 days, Senator.

Senator KENNEDY. Oh, I see.

Mr. MANGEN. And at that time I put it in an envelope and sent it to Mr. Joyce's office.

Senator KENNEDY. That does not account for the 3 weeks' delay.

Mr. MANGEN. Well, that is all I know about it, Senator.

Senator KENNEDY. Well, you do not know why the delay, or where the delay took place?

Mr. MANGEN. No, sir.

Senator KENNEDY. Mr. Kofkin testified that after a correction had been made on the concentration data on April 3 he discovered further errors in the public document.

He further testified you told him the documents were not available because they had been turned over to the security people. Is that your recollection?

Mr. MANGEN. Not exactly, sir. What I told him at that time, I believe, was that I had returned the documents to Humble Oil Company and there was no way for me to check the numbers and be sure that they were accurate and, therefore, we could not make the check that he needed.

Senator KENNEDY. Were there corrections made?

Mr. MANGEN. We had made some corrections for them, yes.

Senator KENNEDY. And then any subsequent corrections?

Mr. MANGEN. Yes, sir; there were some subsequent corrections made on it; but they were of a minor nature, and if you will examine the original document, my report, I believe, of February 27 or 22 and the one issued in June, you will see that the changes are very, very minor. It was due to two typographical errors in one chart, and the other change was due to that late filing that was referred to in the testimony.

Senator KENNEDY. Did you ever discuss destroying the documents with Mr. Albares prior to the time you took them to Mr. Vivian?

Mr. MANGEN. You mean if I had a discussion—you mean whether I should or should not, no, but it was common knowledge that when we finished with them that I was going to take care of them by either returning them to the companies that requested or destroying.

Senator KENNEDY. What do you mean by common knowledge?

Mr. MANGEN. It was understood by him and me, it was not a matter that required a lot of discussion, that this was our understanding of the procedure that we were supposed to use.

Senator KENNEDY. Well, I think Mr. Albares mentioned this morning that you ought to go see Mr. Joyce about destroying the documents. Do you remember that?

Mr. MANGEN. I do not recall him saying that to me, no, sir, but it could have slipped my mind. But I really think that if he had told me to see Mr. Joyce that I would have gone to see Mr. Joyce, because, after all, he is my supervisor. But like I say, it could have been something that slipped my mind. I was very busy then, I was working on several other projects which required a lot of my supervisory time.

Senator KENNEDY. But you did not talk to Mr. Joyce?

Mr. MANGEN. No, sir; I did not talk to Mr. Joyce.

Senator KENNEDY. Did you talk with Mr. Joyce about returning any documents?

Mr. MANGEN. I do not recall that I ever mentioned that to him; no, sir.

Senator KENNEDY. I think Mr. Joyce mentioned this morning about the returning of one of the documents to Humble Oil?

Mr. MANGEN. Oh, this was subsequent to the incident that I am involved in here.

Senator KENNEDY. When did you take the documents to Mr. Vivian to be destroyed?

Mr. MANGEN. I do not recall the exact date, but it was some time around the third week in April, to the best of my recollection, maybe April 20, 21, or 22, something like that.

Senator KENNEDY. Would you have had any reason to tell anyone that you had destroyed the documents before that time?

Mr. MANGEN. No, sir.

Senator KENNEDY. And how do you account for the National Supply Team Status Report dated April 9 with your signature indicating documents R-405 workpapers were destroyed?

Mr. MANGEN. What is the date of that document, sir?

Senator KENNEDY. April 9.

You see, under the status R-405 is the last column and it says "work papers destroyed."

Mr. MANGEN. I think all that means, Senator, is I intended to destroy them during this following time period.

Senator KENNEDY. Well, that is April 9, and it says destroyed, "work papers destroyed."

Mr. MANGEN. Well, I have meant to be destroyed, sir, because I definitely know that I did not take them to Mr. Vivian until about the third week in April.

Senator KENNEDY. I mean, there are other items under status where it talks about "in preparation," or "in progress," or "nearly completed."

Mr. MANGEN. Well, Senator, I do not understand.

Senator KENNEDY. Well, the status reports on the other items are there, and they indicate that the status reflects what the situation of those studies was. You know, they are "nearly completed," "in progress," "report in preparation", "nearly completed", and then they define, the status of those particular items, and then it has "work papers destroyed." That is April 9, that is April 9, some weeks prior.

Mr. MANGEN. All I can say is that I made a misstatement on this piece of paper. I meant they should be destroyed, because I knew definitely they would not be taken to Mr. Vivian until the date that I told you.

Senator KENNEDY. Do you remember mentioning to Mr. Pavetto or Ms. Powell that you indicated to them that you were going to have the documents destroyed to get OEO off your back?

Mr. MANGEN. I said that in jest, Senator. I probably said it more than once in jest. Actually, that is, in general, that is my attitude with my employees. I do not treat them very severely, I just quip quite often.

Senator KENNEDY. Why would you jest about that?

How do you view Office of Economics?

Mr. MANGEN. Well, the Office of Economics, I have cooperated with them many, many times, and I could bring you witness after witness to say that I have cooperated with them in many of the projects that they have done. But, sometimes they do get, they did get on my nerves about these people coming back to me all of the time, and I had an awful lot of other work to do, and it just came out. I mean, I am a human being, and I have irritations and irritabilities, and bad days and everything like everybody else.

Senator KENNEDY. Mr. Vivian testified that you only retrieved the summary worksheets from the burn bag and did not take any of the underlying documents the first day. Can you tell us why?

Mr. MANGEN. Yes, sir. I believe that for the purpose for which Mr. Joyce indicated the Chairman wanted to put all the information together for the committee that we only needed the worksheets. But I believe I did ask Mr. Vivian to hold all of that material and not to do anything with it until he got further instructions.

Senator KENNEDY. You mean the first action when they found that the materials had not been destroyed was to get at the worksheets so that they could respond to Senator Hart's request?

Mr. MANGEN. That is my belief, yes.

Senator KENNEDY. It was not an attempt to retrieve all of the material right away?

Mr. MANGEN. No, sir. But it was our intent to keep the material.

Senator KENNEDY. Pardon?

Mr. MANGEN. It was our intent to keep the material and not destroy it after we got Senator Hart's request.

Senator KENNEDY. Which material, the worksheets?

Mr. MANGEN. Both.

Senator KENNEDY. Why did they get the worksheets, and why did they not get it all?

Mr. MANGEN. The request made to me indicated the worksheets were all that was necessary to prepare the compilation that the Chairman said that Senator Hart needed.

Senator KENNEDY. If you are going to get all of the material, why not scoop it all up?

Mr. MANGEN. Well, it was safer in the safe than it was for me to take that whole bunch of shredded paper up into my office and then get some of it lost, Senator.

Senator KENNEDY. Some of it would get lost in your office?

Mr. MANGEN. Well, when you have a big pile of papers that are all torn up, it is easy for a piece to get lost from the pile.

Senator KENNEDY. Your testimony is that the reason they left it down there was for security reasons?

Mr. MANGEN. I would assume that was one of the reasons, yes. And the other, like I told you, I did not need it, and that was as good a place to keep it as any.

Senator KENNEDY. What were your instructions when you went down there?

Mr. MANGEN. I do not recall my instructions, sir, exactly.

Senator KENNEDY. Well, you had better start thinking about them. That is pretty important, a pretty important order.

Mr. MANGEN. I was told that Senator Hart needed a certain compilation, and I said that I could get them from the workpapers. And I called Mr. Vivian, and he said it was all down there, and I went down and got the workpapers, the pieces I identified as workpapers, and told him not to do anything else with the remaining material. And I went back upstairs to work on the request of the Senator.

Now, I do not see anything wrong with that.

Senator KENNEDY. You were not instructed at the time to preserve the other materials?

Mr. MANGEN. Not to my knowledge, not to preserve it in that particular term. No further action was—we were told no further action should be taken, or some such statement as that.

Senator KENNEDY. Well, which was it?

Did you go down there and say, we have got to make sure none of that is destroyed, and "We are trying to get the other materials pulled together, but I need these worksheets right away," or what?

I am somewhat confused about exactly whether you went down there just to get the material for the response to Senator Hart, and left the other material down there, or whether you went down there when the notice that the materials were down there ready to be destroyed first came, and all of them were preserved?

Mr. MANGEN. Let me go back in time a little bit to answer your question, Senator.

When Tom Joyce came to me on about May, I think we said the 21st or 22d, and asked me if we could prepare a tabulation for Senator Hart in response to a request that they had, I told him no, that we could not because the material had been turned over to be destroyed. And he said, "Larry, this is a very serious matter, and you should not have done this."

Now, this is paraphrasing what I recall. These are not exact quotes.

And I said, I realize that now that I know that you need this material. I did not realize that.

And he said, well, what can we do? And he said, is there any other way that we can put it together, and I told him no, I did not think so, unless the material had not been destroyed.

And I said I can call Mr. Vivian and find out. And he said please do.

I called Mr. Vivian, and Mr. Vivian told me that, fortunately, the material had not been destroyed. And I told him over the telephone not to do anything with the material unless he had further direct orders.

And then Mr. Tom Joyce went on to explain what we needed for Senator Hart, and I said I think I can get that from the workpapers. So I went down to Mr. Vivian's.

Senator KENNEDY. Well, now, sir, was this just about responding to Senator Hart's request, or was he worried about the destruction of material just generally?

Mr. MANGEN. I assume when he heard me talk to Mr. Vivian, when I said, when he heard me say not to do anything further on it, that I had preserved the materials and certainly Mr. Vivian would not go ahead and destroy it after we told him not to.

Senator KENNEDY. In your interview with the staff, you indicated that before that interview you asked the Commission's general counsel

if you needed a lawyer, and he said you did not because he did not believe you had done anything wrong.

Do you remember that?

Mr. MANGEN. Yes, sir.

Senator KENNEDY. Did you have any discussion with Mr. Joyce, the head of the Bureau, concerning where the responsibility lies in this whole matter?

Mr. MANGEN. Mr. Joyce indicated to me that he had the utmost confidence in my integrity as an employee of the Commission and that he would stand behind me.

Senator KENNEDY. Do you think you are being made a scapegoat?

Mr. MANGEN. Yes, sir; I do believe in a way that I am being made a scapegoat, because I firmly believe that I have not done anything wrong, and that these orders that I am supposed to have violated are somewhat ambiguous if you try to interpret them the way that the Commission officers want to interpret them.

Senator KENNEDY. Well, why do you think you are being made a scapegoat?

Mr. MANGEN. Well, you know, this can be a difficult question for me to answer, Senator, because I still work for the Federal Power Commission.

Senator KENNEDY. OK.

Well, do you think the 405 is a precise and useful survey?

Mr. MANGEN. For the purpose for which it was originally intended, which was to indicate a level of reserves that are being held available for sale, yes, sir. But for any detailed type of economic study, you would need many of these records made twice a year for, say, 4 or 5 years before you could use them for trending purposes.

Senator KENNEDY. I see. You could have drafted the survey questions then, and have it be more useful in relationship with the reserves?

Mr. MANGEN. Well, the problem with something like this—let me answer your question first by a little explanation.

The problem with something like this is that it is kind of an ephemeral thing, and a company reports December 1, 1970, that they are holding such and such reserves for sale. And if you went to them 2 days later, you might find that they have sold half of it, and some other company had now discovered or acquired new reserves, and the whole picture could change in just a few days. That is why I say you need many, many points before you can actually attach any significance to something like this.

Senator KENNEDY. What is your feeling about future surveys that will be made by the Commission?

Should they be retained or kept or should they be destroyed?

Mr. MANGEN. It depends. It depends on how you set it up, Senator. If you tell somebody that you are going to do something a certain way, then I believe that you ought to follow through on that.

Now, however, since the problems that we had with this, I believe that the orders can be written in a better way so that we can get the kind of a survey that we can retain the documents, and they should be kept, yes, if they are going to cause problems like this.

Senator KENNEDY. But your feeling was that the material was made available to you with the clear understanding that it was either going to be returned or destroyed, and that that procedure

had been something that had been followed under other similar surveys and, therefore, that your conduct was really not out of the ordinary, and, as a matter of fact, it was your judgment that that conduct was actually expected by the people that had provided the material to you, and that there was nothing that you know about procedures at the Power Commission which in any way would have prevented you from doing just what you did?

Mr. MANGEN. I could not have said it better myself, Senator.

Senator KENNEDY. Do you think the companies will provide the documents in the future if they are not sure that they will be destroyed?

Mr. MANGEN. I can just say that I know for a fact that these companies do consider reserve information to be very sensitive from a financial point of view, and that the recent R-405, the one that was issued subsequent to the one on which I worked, some of the companies did refuse to supply that data, and that in a show cause order relating to the National Gas Survey Field Reserve Study which I supervised, the field reserve study on this, they were asked if they wanted that workpaper data which they have revealed to them, and they indicated to the man almost that they did not want that information revealed.

Does that answer your question?

Senator KENNEDY. Did not most of the companies furnish information though?

Mr. MANGEN. A large number of them did, yes.

Senator KENNEDY. Where is your award?

Could you tell us a little bit about it?

What were you up for?

Mr. MANGEN. I received a sustained superior performance award for my work in the year ending—the period ending about March 31, and in addition to the award, I was supposed to receive \$350 cash award. I was told by the Executive Director on the date the awards were given that I was not to appear in the awards room because it would be embarrassing for the Commission for someone who was under a cloud of suspicion to get an award. And it seemed to me at the time that that was a reasonable request to make, so I did not go. I subsequently found out that a memorandum was sent to the Payroll Department in which they canceled the check which I was to receive.

Senator KENNEDY. Have you heard anything about the possibility of you having a 30-day suspension?

Mr. MANGEN. In the letter all it said was that I was to show cause why I should not be charged, they said the penalty I was to receive was not to exceed a 30-day suspension from my position.

Senator KENNEDY. Why 30 days?

Mr. MANGEN. I understand from conversations with Mr. Maxson and with the Director of Personnel that that is the maximum they can give me and not have an appeal before the Civil Service Commission?

Senator KENNEDY. Why should they not have an appeal, I mean?

Mr. MANGEN. That was the decision they made. I assume perhaps they feel that if I did have an appeal that it might go some other way.

Senator KENNEDY. Mr. Chumbris.

Mr. CHUMBRIS. Thank you, Mr. Chairman. I think that you have fully and fairly covered the field in this area. There is only one point that was brought up at the very, very end about whether the procedures of destroying the documents should be reexamined. Now, you

made a point, and I think one of the other witnesses made a point earlier, yesterday, that there is one particular confidential file that you all have exhaustively looked for, but cannot find where it is, is that correct?

Mr. MANGEN. If you are referring to the workpapers from the first R-405, yes, sir. We cannot find them anywhere.

Mr. CHUMBRIS. Then if the Commission should say "Well, because and not burn," as you burn your national security papers, which may of this now we are just going to keep everything under lock and key, have a far greater significance than the documents that you are talking about, you may find yourself in the position 5 years from now where you will be looking for some of these confidential data that you normally may have destroyed, and look for it because you think it is in a safe that somebody has and you cannot find it to the disadvantage of the national interest.

Mr. MANGEN. The Commission, I will say the Commission has made an honest attempt to try and safeguard these confidential documents by setting up some procedures whereby the person who has possession, or is working on the particular case that has these documents, places them in an envelope and places them in a locked safe. A record is made of the person who did it, and no one can get it out unless the person agrees to it. So, the record is kept outside of the safe and inside the safe in what we have in the way of confidential documents. However, at the rate we get confidential documents, it will not be long before we are completely inundated with paper, and we are not going to know where to keep it all.

Mr. CHUMBRIS. My only point is that the Commission will make the decision about what they want to do, but they should not allow this particular incident to lead them into a decision other than what is the best policy for that Commission.

Mr. MANGEN. I certainly agree with that, yes.

Mr. CHUMBRIS. Thank you. Thank you, Mr. Chairman.

Senator KENNEDY. I would just say, Mr. Mangen, that obviously it is not our responsibility to make a final judgment about the degree of culpability in this particular case. But, just from what we have heard so far—and we are going to have more testimony obviously tomorrow—it seems to me that you were certainly not acting differently from the usual procedures which had been either understood or should have been understood in the Commission. And one point I do regret is that this has been left hanging for a period of time. I think people are entitled to know the nature of these charges and entitled to get some final disposition on this. And I think it is an unfair burden for you to have to assume the waiting for the final determination. And as somebody who is interested and concerned for the rights of Federal employees, I think that is extremely unfair to you, and to the other employees as well who might be similarly affected. Sir, we appreciate your appearance here. We are going to be very interested in the actions that are ultimately taken in your case because our committee has responsibility to oversee these procedures and the kind of process that is going to be followed to protect the rights of individuals who work for the Government.

Mr. MANGEN. Thank you, Senator Kennedy. And I would like to thank the staff members for their courtesy to me because it made it a lot easier to bear.

Senator KENNEDY. Very good. Thank you very much.

Mr. FORQUER. Mr. Forquer, do you swear to tell the truth, the whole truth and nothing but the truth?

**STATEMENT OF LEO E. FORQUER, GENERAL COUNSEL,
FEDERAL POWER COMMISSION**

Mr. FORQUER. I do.

Senator KENNEDY. Prior to your first learning of the attempted document destruction in R-405, were you aware of document destruction by Federal Power Commission personnel?

Mr. FORQUER. No, sir.

Senator KENNEDY. Did you have supervisory authority over AR-69-1?

Mr. FORQUER. Yes, sir.

Senator KENNEDY. And on R-405, the original?

Mr. FORQUER. No, not really. No.

Senator KENNEDY. Who did?

Mr. FORQUER. I am not sure I can answer that, Senator. I had no connection with it, and I do not think I know. Certainly it was under the general supervision of the then-general counsel, but other than that I do not know.

Senator KENNEDY. Has the 405 original been located?

Mr. FORQUER. The 405 original? No, sir. To the best of my knowledge it could not be found.

Senator KENNEDY. And are you aware of any orders or instructions issued within the FPC prior to May 21, prohibiting destruction of confidential documents before their return to the companies?

Mr. FORQUER. None that I have any recollection of. Of course, the two memoranda you have previously talked about I have seen since, but I had not then.

Senator KENNEDY. Well, you are the general counsel.

Mr. FORQUER. Yes, sir.

Senator KENNEDY. If there had been some guidelines, would you not have known about them?

Mr. FORQUER. Well, within the past year I would. That is the length of time in which I have been general counsel.

Senator KENNEDY. Were you familiar with any when you assumed your responsibilities?

Mr. FORQUER. Well, the administrative manual talks about what you do with documents, but I do not remember anything specific about destruction.

Senator KENNEDY. Is not the administrative manual rather vague on this question?

Mr. FORQUER. It is vague, yes. I think different conclusions, perhaps, could be drawn.

Senator KENNEDY. Do you think there is a prohibition against the destruction of material in the administrative manual?

Mr. FORQUER. I think under the administrative manual you do not have the right to destroy official filings with the Commission, and I personally consider these as official filings.

Senator KENNEDY. What about Mr. Allen's observations this morning that the company responses were private property and not Commission information?

Mr. FORQUER. I think when responsive filings are made with the Commission in response to Commission orders, they are official filings which should remain with the Commission.

Senator KENNEDY. So, you disagree with him?

Mr. FORQUER. Yes, sir, I do.

Senator KENNEDY. Would you relate the circumstances surrounding your learning of the attempted document destruction in the R-405 original?

Mr. FORQUER. 405 original?

Senator KENNEDY. Yes.

Mr. FORQUER. Or update?

Senator KENNEDY. Update, excuse me.

Mr. FORQUER. Update. I think it was on May 21 when I was called to the Chairman's office and a discussion was going on at that time, which apparently involved Senator Hart's letter I think of May 18, and the discovery that these documents had been destroyed, or at least the documents had been sent to be destroyed.

Senator KENNEDY. Well, it is my understanding that there is no formal interview on the Commission's own investigation into the destruction which was conducted until June 12, the day after Senator Hart's letter indicating his intention to investigate the matter.

Mr. FORQUER. I think that is right.

Senator KENNEDY. Well, why wasn't there?

Mr. FORQUER. Well, I think if I understand correctly, Mr. Maxson was designated to investigate. I think he had done some investigation, but it was not on the record, and then he conducted a series of interviews with various people with respect to what had happened.

Senator KENNEDY. Well, if everyone was so upset about this, why was something not done about it?

Mr. FORQUER. Well, as I recall the first thing that was done was to try to get the documents put back together again, and then as I say, it is my recollection that Mr. Maxson probably had discussions with a number of people as to what had gone on. And then we later decided to place them on the record in affidavit form.

Senator KENNEDY. Were you not supposed to counsel Mr. Maxson during the course of his investigation?

Mr. FORQUER. Well, I do not know, Senator. I may have had discussions with him, but I have some doubts about it.

Senator KENNEDY. Well, what was your role during the investigation?

Mr. FORQUER. My only role during the investigation was to question the witnesses when we took the affidavits from them with respect to their recollections on what had happened.

Senator KENNEDY. But you did not have anything to do with scheduling the investigation?

Mr. FORQUER. No, sir.

Senator KENNEDY. Was Mr. Joyce ever formally interviewed during the internal investigation?

Mr. FORQUER. No, I think during the period we were doing this, Mr. Joyce was not at the office. He was either on annual leave or sick leave. He was not, by me, in any event, in an affidavit form.

Senator KENNEDY. Pardon?

Mr. FORQUER. Not, at least, by me in affidavit form.

Senator KENNEDY. Would it not have been helpful to have his statement?

Mr. FORQUER. I think it would have been desirable, yes.

Senator KENNEDY. But nothing was done?

Mr. FORQUER. No, sir.

Senator KENNEDY. Now, it is my understanding that on June 15 you wrote a memo to the Chairman recommending that the Commission not provide the responses in R-405 update to this committee. Is that right?

Mr. FORQUER. That is correct.

Senator KENNEDY. Had you previously advised the Chairman that he should furnish the material to the committee?

Mr. FORQUER. Well, now, Senator, I may have suggested to him informally that it might be a desirable way out of this. I never told him legally he was required to.

Senator KENNEDY. Well, what did you mean?

Can you clear that up a little bit?

Mr. FORQUER. All I am suggesting, Senator, is that I felt that this was a very difficult situation, and I think at one stage I suggested to the Chairman that perhaps I could discuss this with members of the staff of Senator Hart's subcommittee, and perhaps some accommodation could be worked out.

Senator KENNEDY. So at least you thought that this material could have been made available to the committee?

Mr. FORQUER. I was hopeful that some arrangement could be worked out whereby it would be furnished to them on a confidential basis.

Senator KENNEDY. Do you think it was illegal to provide it for the committee?

Mr. FORQUER. Senator, that is a very close question. I think that under section 8(b) of the Natural Gas Act that when the Commission, which I think they properly can, gets data of this kind and assures those from whom they get it that the confidentiality of that data would be respected, that I think it is questionable whether it should be turned over legally.

Senator KENNEDY. Is your response that this confidentiality comes under the Natural Gas Act, and not the Freedom of Information Act?

Mr. FORQUER. I do not think the Freedom of Information Act has anything to do with it, other than the fact that the Freedom of Information Act recognizes that these types of data could be held confidential by executive departments or agencies. But I do not think it is relevant to this question.

Senator KENNEDY. Why was it cited in the letter, then, as a basis?

Mr. FORQUER. Simply because it indicated, or at least as far as I was concerned, it was cited because it indicated that was the type of data which could be held confidential and should not be made public.

Senator KENNEDY. Does the Natural Gas Act say anything about availability to Congress?

Mr. FORQUER. No, sir. That is one of the points. There are some statutes which have confidentiality provisions in them and specifically provide that that shall not apply to the Congress. That is not true in the Natural Gas Act.

Senator KENNEDY. When the Commission issues an order indicating materials should be maintained in a confidential manner, do you believe that this precludes FPC employees from viewing it?

Mr. FORQUER. That would not be my judgment.

Senator Kennedy. Pardon?

Mr. FORQUER. No, sir.

Senator KENNEDY. Were you ever asked your opinion on this?

Mr. FORQUER. No, sir. My view is that if it is made available to other members of the staff, they are under the same statutory obligations that anybody else is if they violate the law, if they make it public.

Senator KENNEDY. Do you think the destruction of material violates that provision?

Mr. FORQUER. On confidentiality?

Senator KENNEDY. Yes.

Mr. FORQUER. On publication?

Well, not in that aspect, I do not think that is making it public. But I do not think it should be destroyed. I think it is an official record of the Commission.

Senator KENNEDY. You do not believe that if the companies themselves indicate in the letters that they are providing it on the basis that it be returned or destroyed that that has any weight? What weight do you give it?

Mr. FORQUER. I do not think that it is binding on the Commission. I think that if the Commission orders the filing and they submit it, it is an official filing with the Commission and should be maintained.

Senator KENNEDY. Did you know the previous files had been destroyed?

Mr. FORQUER. I discovered that after this incident arose.

Senator KENNEDY. Not before?

Mr. FORQUER. No, sir.

Senator KENNEDY. You did not know it before. Do you think the order prohibits destruction where it says the record shall be maintained in a confidential status?

Mr. FORQUER. Yes, I think it should prevent the destruction of them.

Senator KENNEDY. Well, Mr. Allen referred this morning to a statement filed the 28th of September with Senator Jackson with the Interior Committee which purported to contain the combined opinion of the Bureau of Natural Gas and the Office of General Counsel on natural gas deregulation. The comments made there from that office document, the document signed by Mr. Allen, read that "while I assume full responsibility for the foregoing comments, they are the combined product of the Office of General Counsel and the Bureau of Natural Gas."

Would you comment on the knowledge you have of this document and the Office of General Counsel's participation in this document?

Mr. FORQUER. I was on annual leave at the time this was prepared, Senator, and actually have not read the letter myself, nor Dr. Wald's previous letter. I understand that a couple of lawyers in the Office of General Counsel did participate in the drafting of the letter, and that is the extent of my knowledge.

Senator KENNEDY. Were you kept abreast of it when you came back?

Did you know about it?

Mr. FORQUER. I was told by one of the lawyers that they participated, and that their participation was a furnishing of citations on court decisions, which I understand were included.

Senator KENNEDY. But not in reaching conclusions?

Mr. FORQUER. This is what he—he did not so indicate to me.

Senator KENNEDY. Could you make clear to the committee what the participation of the General Counsel's Office was in the preparation of that document?

Mr. FORQUER. Well, I do not know.

Senator KENNEDY. Well, will you find out?

Mr. FORQUER. I will find out.

Senator KENNEDY. And let us know.

Mr. FORQUER. I will send something to the committee on that.

Senator KENNEDY. Thanks very much.

Mr. FORQUER. Yes, sir.

[The material referred to follows. Testimony resumes on p. 1032.]

FEDERAL POWER COMMISSION,
Washington, D.C., November 2, 1973.

Hon. EDWARD M. KENNEDY,

Chairman, Subcommittee on Administrative Practice and Procedure,

Committee on the Judiciary,

U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During my testimony before the joint hearings of the Senate Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practice and Procedure on Wednesday, October 17, 1973, you asked me, at transcript pages 241-2, to furnish you details concerning the information provided by attorneys in the Office of General Counsel which was utilized in the letter (enclosed) dated September 28, 1973, from Frank C. Allen, Acting Chief, Bureau of Natural Gas, Federal Power Commission, to Senator Henry M. Jackson, Chairman of the Senate Committee on Interior and Insular Affairs. Mr. Allen's letter was the joint product of the Bureau of Natural Gas and of attorneys in the Office of General Counsel acting in my absence but within their responsibilities, and for which Mr. Allen indicated he took full responsibility. It offered comments upon the views earlier expressed in letter comments to Senator Jackson from Haskell P. Wald, Chief, Office of Economics, Federal Power Commission, and two other members of his staff concerning the recent Draft Staff Report of the Committee on Interior and Insular Affairs entitled, "Policy Issues and Options Affecting Natural Gas."

Listed below are those portions of the letter written primarily by attorneys in the Office of General Counsel, after discussion and agreement with Mr. Allen and members of his staff as to the responses on these points that could appropriately be made to the Office of Economics comments. You will note that, as I indicated during my testimony, those portions contributed were essentially case citations or reference to other source material with which the attorneys were particularly familiar. Thereafter, the drafting of the paragraphs so as to include these references in expository form was primarily a matter of convenience and eliminated the necessity and delay of explaining the details to the technical staff to enable them to set forth these same points.

Page numbers refer to the Allen letter:

Page 3, 1st full paragraph—Reference to *Permian Basin Area Rate Cases* and the setting of area rates by use of averages.

Page 3, 2d full paragraph—Refers to moratoria imposed in various area rate proceedings.

Pages 3-4, bottom paragraph—Refers to trends indicated in the *National Power Survey* of the FPC.

Page 4, 1st full paragraph—Discusses FPC Opinion No. 320, 21 FPC 653.

Page 4, last 2 paragraphs—Both paragraphs noting that an important issue is what impact producer deregulation would have on competition.

Page 5, 2nd full paragraph—Discusses statute and cases re the availability of eminent domain to gas producers.

Pages 9-10, bottom paragraph—Discusses FPC Opinion No. 639 in Docket No. R-371.

Pages 10-11, bottom paragraph—Reference in the "Fourth" item in the paragraph to *Shell Oil Co.*, RI71-240, *et al.* and the non-confidentiality there of proprietary data.

Page 14, 4th full paragraph—Notes the apparent logical internal inconsistency, in light of the historical test period analysis used in setting area rates, of the comments of one member of the Office of Economics who argues for cost based prices together with moratoria on price increases.

Some minor suggestions or stylistic comments were also made by the attorneys in reviewing the final draft but are not believed to have involved substantive matters.

I believe these details respond fully to your request. Please contact me if I may be of further assistance to you in this matter.

Very truly yours,

LEO E. FORQUER,
General Counsel.

Enclosure 1

SEPTEMBER 28, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: At your request several Federal Power Commission staff members submitted comments to your Committee on the Draft Staff Report, "Policy Issues and Options Affecting Natural Gas", prepared by Patricia E. Starratt of the Energy Study Staff.

Because one may tend to ascribe an unwarranted degree of expertise to individual employees of an agency I feel constrained to offer the following comments on some of the submittals to your Committee in order to present a more representative assessment of FPC staff reaction to the report of Miss Starratt.

I. LETTER FROM HASKELL P. WALD TO SENATOR HENRY M. JACKSON, DATED SEPTEMBER 10, 1973

At page 2 of his letter, Dr. Wald discounts the conclusion in the Staff Report that the Commission made the pursuit of low prices which benefit the consumer its primary goal during the 1960's and that it disregarded the equally important objective of encouraging an adequate gas supply, and there cites the following language from the Permian case "the area rate approach offers a regulatory method which is best adapted to the discharge of our responsibilities for protecting natural gas consumers while providing the greatest incentive to producers to continue their search for needed additions to our gas supply," (Emphasis Dr. Wald's). To place this statement in context, the Permian Area Rate decision was issued August 5, 1965, at a time when there was no concern over gas supply. This is demonstrated by the statements made by virtually the same Commission (four of the five Commissioners participated in both orders) in the *Alabama-Tennessee* case also authored by Chairman Swidler where it was stated:

"INGA and the Illinois Commerce Commission have argued the rate flow-through is inappropriate for natural gas pipelines because they differ from other utilities, whose Section 167 tax savings have been used to reduce their rates, by virtue of their complete dependence upon a finite supply of a wasting asset. No factual date were offered in support of this general allegation."

"The report of the National Fuels and Energy Study Group squarely rejects the thesis of these interveners. Thus, in discussing energy supply in 1980 it states that:

"Gas has been called a vesting asset so valuable that "conservation is paramount." We find no factual basis for this conclusion; in fact, we find no factual basis for any conclusion except that there will be a satisfactory supply of gas in 1980 * * * (p. 304.)"

"We do not dispute the contention that economically extractable gas reserves will suffer exhaustion at some indeterminate future date. However, we know of no reliable claim that such exhaustion of gas supplies is certain or even probable within this century. The fact that our gas reserves may be exhausted in the 21st century certainly does not establish that there is a present need for additional normalization. 31 FPC 208, 218 (1964)"

Furthermore, evidence presented by the Office of Economics with respect to gas supply in *Permian* is summarized as follows: "Staff also presents an econometric study whose thesis is that higher field prices for gas will tend to reduce consumer demand which will tend to reduce gas production; and in turn exploration." 34 FPC 159, 310 (1965) An exact parallel of the rationale of the Commission in *Alabama-Tennessee*, *supra*, at 218-219. It is obvious that the Commission during this period considered *demand* not price as the controlling factor in gas exploration and development.

Dr. Wald states that there is no evidence that the Federal Power Commission sets rates on the low side. This statement is incorrect inasmuch as in establishing the first area rate price ceiling the Commission used the average price of gas for an historical test period. Thus, the cost of gas was unavoidably low for many producers for two reasons. One, when the average cost of gas is used to set the price ceiling by definition some producers will have costs above the average, others below the average. Those with costs above the average would thereby have costs in excess of the area price ceiling they were allowed to charge.¹ Two, in *Permian I* an historical test year was used thereby estimating costs and rates for the future on the basis of past experience. Accordingly, the area rate reflected

¹ The Commission recognized this unavoidable situation in *Permian I*, 34 FPC 159 at 185.

only past costs and if a producer's cost increased he could not recoup those costs even if a purchaser would pay the higher price. Thus, the procedure developed for setting area rates had the undeniable effect of pricing certain producers out of business.

Dr. Wald asserts that the reason there were delays in adjusting area rates is long drawn out legal proceedings. Contrary to what Dr. Wald indicates, legal or procedural delays were not the primary reason for delay in adjusting rate ceilings. Even though there may have been legal action, the Commission imposed on itself a time delay by ordering moratoriums on increases of area price ceilings.

Dr. Wald suggests that the Federal Power Commission's price ceilings in the 1960's should not be condemned as increasing gas consumption but should be applauded for conserving our declining oil reserves, presumably by displacement. In fact, the increased consumption of gas at that time was not the result of demand shifting from oil to gas.

Indications are that to the extent there was a shift from another fuel to natural gas, the shift was sway from coal our most abundant fuel, and not oil. During the period 1961 through 1970, for example, the percentage of coal consumed by electric utility power plants as compared to total electric utility power plant consumption declined from 64% to 55% while the percentage use of oil increased from 8% to 15% while the relative percentage of gas consumption remained about the same.²

In regard to the "demand stimulation," Dr. Wald contends that the Draft Staff Report ". . . is in error in stating that the FPC set the commodity component of pipeline rates at a minimum level. . ." Wald states that: "Some pipelines were permitted a rate 'tilt', but rarely, if ever, down to the minimum level." The fact is that the Draft Staff Report is not in error, and indeed, in one glaring instance the Commission fixed a commodity cost below the gas purchase cost of the pipeline's supplier, *Midwestern Gas Transmission Co.*, Opinion No. 320, 21 FPC 653. Indeed, as pointed out in the dissent to Opinion No. 320, the "great bulk of the gas needed to serve the Chicago area market was acquired by Tennessee in Louisiana . . . at a total price of 23.7¢ per Mcf" (*id.*, p. 668) yet, the Commission approved a commodity rate for interruptible industrial sales in the Chicago market of 22¢ per Mcf.

Dr. Wald as well as Drs. Schwartz and Wilson have submitted that the gas industry structure and market behavior leads to the conclusion that there is presently little or no competition among producers. Where government regulation is substituted for competition where natural competition might otherwise exist,³ it is reasonable to expect that introduction of that regulation may soon create monopolistic tendencies. Federal regulation of gas prices may have pushed the industry in that direction.⁴

In considering the deregulation of gas prices the issue is not whether there may be noncompetitive tendencies in the industry today. Even assuming, *arguendo*, that there is no competition today the important question is what would the competitive situation be today under deregulation.

The analysis of Drs. Wald, Schwartz, and Wilson deals with a limited time frame and fails adequately to study the structure of the industry prior to regulation or look to see what it would be like under deregulation.

In his discussions of the updated nationwide ceilings being considered in R-389B. Dr. Wald states that he sees no reason to prejudge that the new ceilings established thereunder would not elicit more supply. The desired impact of the new ceiling is of course not just to elicit more supply but rather to draw forth sufficient new supplies so that a position of supply adequacy will be attained. Dr. Wald appears to take the position that rates at the lower end of those now being approved for limited term and "optional pricing" sales will be adequate to trigger "a substantial improvement" in new gas supplies without knowing the extent to which this supply response will approach adequacy. His optimism for the sufficiency of the rates he anticipates is tempered only by his pre-condition for a continuation of producer regulation in the years ahead. His position here seems somewhat inconsistent with his statement in the middle of page 6 where he states that "The policy dispute is over how high a ceiling price is "reasonable" and "necessary" and also over the method of setting the new prices, rather than over the need for any upward adjustment of existing ceilings."

² 1970 National Power Survey, FPC, Part I, Table 4.1, p.I-4-2.

³ In 1960 before "cost based" area rates were imposed, there were approximately 18,807 gas producers (U.S. House of Representatives, Special Subcommittee on Legislative Oversight Independent Regulatory Commission, 86th Congress, 2d Session (1960 and p. 76)).

⁴ In 1971 there were less than 4,000 producers. 1971 Sales by Producers of Natural Gas to Interstate Pipelines, FPC Office of Accounting and Finance, at pp. V-VI.

One reason erroneously cited as compelling regulation of natural gas producers is the industry's privileged use of the power of eminent domain. In fact, the privilege of eminent domain is not industry-wide and most importantly, pursuant to Section 7(h) of the Natural Gas Act, 15 U.S.C. 717f(h), is not applicable to natural gas facilities for which there is no outstanding certificate authority. Significantly, under present law, producers are exempted from the requirement for certificate authorization and thus require no certificate authority for wellhead facilities or lines used for gathering. *FPC v. Panhandle Eastern Pipe Line Co.*, 337 U.S. 498; *Phillips Petroleum Co. v. Wisconsin*, 347 U.S. 672. In relevant respects, therefore, producers now have no eminent domain authority and would not have that authority with deregulation. Eminent domain authority is not therefore relevant to resolution of the issue of producer regulation.

On page 8 Dr. Wald states: "Page 28: There is no basis for the statement that 'lower prices for old gas inevitably result in gas being left in the ground that otherwise could be produced.'" Under Commission policy, producers are invited to request rate relief if a price increase is necessary to avoid premature abandonment. As a general rule, the flowing gas ceilings substantially exceed the variable cost of operating a well. Moreover, the Commission has always granted rate relief when there is cost justification, as there might be toward the end of a well's life when it may be economical to install added compression."

Dr. Wald makes two principal mistakes in his assertions. Dr. Wald claims that well investment cost are already "sunk" as regards to flowing gas pricing, at the time that decisions have to be made to make additional investments to increase recovery, that part of the gas price attributed to operating costs, or for that matter any other costs, has already been "had". In fact, however, the decision to make additional investments will have to stand on its own. It will depend on the relationship of the additional investment and its associated operating and maintenance costs to the volume of additional products to be recovered, the price he will receive for those products, the timing of the income and, last but not least, the risk involved. The second mistake is to assume that additional recovery will be obtained through existing wells at very late stages of depletion of the reservoirs of field. Installing compression toward the end of a well's life is not the only way to increase recovery. There are remedial methods that can be used to increase production rates, extend economical producing rates and increase recoveries. For example, wells may begin to make water, either from the formation or from pressure reduction channeling. These wells can be cement squeezed⁵ and possibly be reperforated higher in the section. In low permeability formations or formations with discontinuous permeability⁶ additional perforating may be done or formation fracturing⁷ performed. Often, as pressure declines, condensates and water may collect in the well and reduce the flow. In these cases small diameter tubing or "siphon" strings may be run in the well to increase the velocity of flow and expel the liquids. In formations with multiple thin lenses of porosity over long sections, applications might be made to comingle production, and additional perforating might increase production and recovery. There are innumerable situations where plug-backs and recompletions might be attempted on gas accumulations that appear marginal, if higher gas prices could justify the economics and risk involved.

Probably a larger increase in recovery could be obtained from reservoirs presently producing by additional drilling of wells. This is especially true in formations of low or discontinuous permeability. Very often in this type reservoir, permeability communication is so poor that pressure drop due to production in the vicinity of the well bore causes production rates to fall below the economic limit. The area between the wells may still have sufficient pressure to support economic flow. In-field drilling or drilling on smaller spacing may cause a large increase in gas recovery. This type drilling, occasioned by high intrastate prices, has caused a drilling "boom" in the old Monroe Field in northeast Louisiana and the Hosston Formation in northwest Louisiana. There are many areas with this type potential that would be triggered by an intrastate buyer or the interstate with attractive gas prices.

In reservoirs with a water drive, often the highest producing wells become "watered-out" while recoverable gas remains in the up-dip "attic" area of the reservoir. Higher gas prices could cause these areas to be drilled if it would justify the economics and risk involved. Often, the recovery or pressure loss in a reservoir indicates a smaller reserve than the volumetric information has indicated. This

⁵ Cement squeezing is a process whereby cement is pressure forced into production perforations to re-cement a well and block those perforations.

⁶ The permeability is intermittent so that all permeable sections are not connected.

⁷ A process by which the rock formation is broken and fractured, usually by hydraulic pressure.

may be due to lenticularity⁸ permeability barriers⁹ or undetected faulting. Additional drilling may discover undrained reserves.

There are various other possibilities. The few examples above do indicate that there is a basis for the statement that "lower gas prices for old gas inevitably result in gas being left in the ground that otherwise could be produced."

To the extent that Drs. Wald, Schwartz and Wilson covered similar points, separate commentary is made only where necessary.

II. COMMENTS OF DR. JOHN WILSON

It can be noted from the tables in Appendix 1 that drilling for hydrocarbons in the United States reached a peak in 1956 for all of the three principal categories listed: (1) total wells drilled, (2) total exploratory wells drilled, and (3) new-field wildcat wells, the category of drilling that discovers the new fields that are necessary for the maintenance or adequate oil and gas supplies. Gas wells drilled peaked in 1961 at 5,459 wells and had declined to 3,456 wells by 1968. It is quite evident from drilling statistics that the gas shortage was approaching long before gas production exceeded new gas reserve additions for the first time in 1968.

Coupled with the fact that drilling has been declining, is the disturbing statistic that both oil and gas discoveries in this country are decreasing in size as the oil and gas producing areas are becoming more thoroughly explored. According to the American Association of Petroleum Geologists¹⁰ about 65 new-field wildcat wells were required in 1966 to find one significant discovery (over 1 million barrels of oil or 6 billion cubic feet of gas) compared to about 28 wells required in 1945 for each significant discovery. This determination by the AAPG is based on six years of history after the discovery of the field to allow for full development. Based on a preliminary estimate by the AAPG only 110 of the 566 oil and gas discoveries that occurred in 1972 were considered significant. This is equal to one significant discovery for each 46.2 new-field wildcat wells drilled in 1972. Based on past experience, the six years of history following the 1972 preliminary estimate will likely result in an upward revision of the number of wells required to discover a field of significant size.

In the second footnote which appears at the bottom of page 4, Dr. Wilson suggests the possibility that the R/P ratios of the 1950's may have been too high to begin with and that their decline might be attributable to normal market forces. This observation is offered in connection with his contention that significant gas shortages did not occur until 1968 or 1969. While 1968 or 1969 may have been the point in history when demand over-ran supply, for the reasons shown above, it is more important to recognize that the Nation's supply posture is currently undeniably below desirable levels. This situation is seen in a trend toward increased reliance on higher cost baseload supplies, increasingly severe curtailments of firm service requirements on the part of interstate pipelines and in limited new customer attachment policies on the part of many of the Nation's distributors at the direction, or with the approval, of state regulatory authorities.

Dr. Wilson states that the Committee Staff's argument that regulated prices have been too low and that producers discount whatever rate level is approved by the FPC, appears to be inconsistent with the Staff's observation that pipelines were given a significant new incentive when they were allowed to obtain area rates rather than cost-of-service prices for pipeline produced gas. Dr. Wilson's criticism totally ignores the differences in so-called cost-based regulation of pipelines and independent producers. At the time the Commission permitted pipelines area rate treatment on gas production for losses acquired after October 7, 1969, cost-based regulation of pipeline production differed from area rate regulation in two significant respects; (1) the rate of return allowed pipelines was substantially below that allowed producers, *El Paso Natural Gas Company* 28 FPC 688, and (2) income tax reductions arising from tax losses and special incentives associated with exploration and development were, at least in part, required to be flowed through to customers, and not retained by the pipeline producer, *Southern Natural Gas Company* 29 FPC 323.

In a footnote on page 5 of his comments, Dr. Wilson states that "Under recent FPC rulings, flowing gas may, upon contract expiration, or renegotiation, be priced at up to whatever is the going new gas rate." Dr. Wilson's statement is in error. He obviously is referring to the Commission's Opinion No. 639, issued December 12, 1972, in Docket No. R-371. The Commission there determined that the new gas ceiling may be applied for upon execution of a new contract for

⁸ The sand or porous formation is formed in unconnected lenses.

⁹ A lateral zone of change in rock characteristics through which fluids cannot penetrate.

¹⁰ AAPG, Volume 57/8, August 1973, p. 1398.

deliveries of gas previously certificated and dedicated to the interstate market under a contract which has expired by its own terms. Thus, mere contract renegotiation does not qualify a sale for the new gas ceiling.

Dr. Wilson on page 6 makes the completely erroneous and unsupportable assertion that it is "in the pipelines' interest to raise natural gas costs as high as possible in order to 'justify' the alternatives." It would be completely irrational for pipelines to pursue such a course at a time when they are losing boiler fuel markets to oil and residential load to fuel oil and electricity. The only possible way for the natural gas industry to remain viable is to seek increasing growth in the energy market by offering adequate supplies at the lowest competitive price. The Committee Staff's contention that pipelines would prefer to keep fuel costs low in favor of capital intensive supplemental supply facilities in patently reasonable. Anyone familiar with the gas industry's monumental planning and financing, let alone regulatory, problems associated with LNG and SNG facilities would have to reject out of hand Dr. Wilson's contention that pipelines seek to justify such projects.

Dr. Wilson on page 7 states that it is absurd to contend that cost-based price and competitive market prices are somehow totally different economic concepts. His statement may be true within the realm of pure economic theory where producers would be able to produce all the gas that is desired at the lowest possible cost plus a fair rate of return. However, once regulation is introduced into the picture, several factors begin to influence the costs that producers can expect to receive. First, once a producer commits his gas to the interstate market he cannot withdraw without abandonment authorization from the Federal Power Commission. Second, once a rate is established a moratorium period of several years has in the past been imposed during which time no increased costs can be recouped. Third, price adjustments can only be effected with the approval of the Federal Power Commission, often after long periods of delay. Fourth, in order to justify price increases, proprietary data must often be made public and subjected to scrutiny during protracted public hearings, see for example the Commission Order issued January 10, 1973, in Shell Oil Co., *et al.*; R172-240, *et al.* Order Granting Special Relief and Terminating Proceedings; Partially Approving Settlement Proposal; Accepting PGA Clause and Terminating Suspension Period; and Consolidating Proceedings. Add to these inhibitions to full cost recovery the fact that historical costs without adjustment were traditionally used to establish prospective rates, and it is hard to conceive how such "cost-based prices" can in any sense be considered competitive market prices.

Dr. Wilson describes as "unfounded" the contention that gas production costs can not be estimated with reasonable accuracy. In a number of area rate proceedings the FPC has determined the average costs of producing gas, but these determinations have only been made after considering testimony from different witnesses representing a wide range of opinion as to the proper level of the different cost elements. It should be noted that only a portion of the cost of finding, developing and producing new-gas-well gas is relatable to specific gas volumes (lease acquisition, well drilling and equipping, production expense, royalty and production taxes.) The remainder is composed of exploratory expense that is never relatable to specific gas volumes and return on investment. Where oil and gas are produced jointly from the same lease the cost allocations between the two products are very difficult and complex.

Dr. Wilson characterizes the Staff statement that there is no evidence that producers are withholding the commitment of new gas reserves as "deceptive allegation". The fact of the matter is that the Federal Power Commission is currently collecting data on uncommitted gas reserves available for sale under Docket No. R-405. All companies have not yet responded to the latest request but the data previously collected is summarized below.

UNCOMMITTED GAS RESERVES

[In millions of cubic feet]

Date of estimate	Lower 48 States	Total United States including Alaska
Dec. 31, 1969.....	4,578,480	5,985,284
Oct. 1, 1970.....	4,374,834	6,074,131
Dec. 31, 1971.....	3,817,838	31,640,699
June 30, 1972.....	3,401,064	31,218,245

The estimate of June 30, 1972, for the lower 48 States is equivalent to 1.4 percent of the 1972 yearend reserves of the United States as reported by the American Gas Association.

As a part of the National Gas Survey the Commission staff carried out an independent gas reserve study. The proven natural gas reserves as estimated by staff were about 9 percent lower than those estimated by the American Gas Association as of December 31, 1970. In none of these studies was evidence uncovered that producers were withholding significant quantities of gas reserves.

Dr. Wilson's apparent denial of the role that environmental considerations have and will play in this Nation's ability to cope with the energy problem, including the petroleum shortage, is unfortunate indeed. Environmental considerations have had a great impact upon the displacement of coal in many applications and with the ensuing switch to cleaner gas and oil. The Nation's increasing requirements for gasoline, low sulfur oil and other clean fuels, along with the needs of an expanding economy, have not kept pace with our domestic ability to produce these fuels. Uncertain import policies in the past have not fostered the economic assurances needed to undertake the construction of the expanded refining capacity necessary to meet these growing needs with oil and domestic crude has not been available in sufficient quantities to justify the required level of expansion. In addition, delay in granting certain offshore leases in the Gulf of Mexico and restraints on drilling off the coast of California have been initiated and litigated by environmental groups. Also, extensive delays in the construction and operation of nuclear generation plants have been incurred by the actions of such groups. The "switch" to oil has been quickened by the demands of those consumers who would otherwise have chosen gas as a fuel except for its general unavailability. The only way to have immediately responded to the current need for an expanded oil supply would have been to construct significant "excess" refining capacity beginning several years back so that it would have been available today. Investment in the provision for such excess capacity at that time could not have been considered prudent.

III. STATEMENT OF DR. DAVID S. SCHWARTZ

Dr. Schwartz refers to the firm gas curtailments of the major interstate pipeline companies as "supposed" supply deficiencies. It is difficult to express the tragedy of the use of the word "supposed" particularly when the user is an employee of the FPC and has access to studies and reports at a time when, for whatever reason, the scarcity of gas is very real. The firm gas curtailments of the interstate pipelines which started in November 1970 and have increased month by month at an alarming rate up to the present are strong and definitive evidence of the seriousness of the natural gas shortage. After eliminating the intercompany transactions, Dr. Schwartz asks, actual and estimated curtailments for the April through October 1973 period amounted to 741 billion cubic feet, and are projected to amount to 509 billion cubic feet during the coming 1973-74 heating season. These curtailments are to firm service customers which means that they represent a failure to fulfill contractual obligations. United Gas Pipe Line Company, had to curtail deliveries by 34.9 percent of firm requirements during the most recent four month reporting period. For the same period curtailments by Arkansas Louisiana Gas Company amounted to 23.9 percent of firm requirements. Dr. Schwartz points out that the curtailments during summer months are to conserve gas for injection to underground storage. The curtailments of firm service during the summer are no less real and serious for the affected customers and the storage of gas has not prevented the continuing sharp increase in curtailments over the last two and a half years both winter and summer. Dr. Schwartz suggests that gas distribution companies may have installed new peaking facilities which have the effect of blunting the effect of curtailments during the winter periods. While this may be true to a limited extent, the current and prospective propane shortage, and the recently proposed mandatory propane allocation program announced by the White House Energy Policy Office, would make it highly unlikely that gas distribution companies will be able to expand their winter peaking capabilities in this fashion. For last winter we estimate that gas distribution companies and direct industrial users were able to offset their curtailed volumes with other gas supplies only to the extent of about 15 percent of the volumes curtailed.

On page 3 of Dr. Schwartz's comments he refers to the observations of Dr. Howard Pifer of Harvard University with regard to the FFC National Gas Reserves Study. Dr. Pifer, a former faculty member of Harvard University was acting as a statistical consultant under contract to the FPC. Dr. Pifer's participation in the National Gas Reserve Study was limited to the activities of the team which was to prescribe sampling procedures for valid reserve estimation. His services were not obtained on the basis that he was knowledgeable on the estimation of gas reserves and there is nothing in his credentials to indicate that he is competent in this area. Dr. Pifer has testified relative to functions of the National Gas Reserve Study that are beyond his area of expertise.

In regard to statements made by Mr. James T. Halverson, Director, Bureau of Competition of the Federal Trade Commission these statements were unsupported by documentation and are meaningless unless a definition of reserves are stated and all reserve estimates cited are consistent with the definitions. In fact, Mr. Halverson's main problem appears to be definitional in nature. Definitions of proved reserves as used by interstate pipeline companies to justify the construction of an expensive offshore development drilling platform, or those of the AGA may differ considerably. However, both the American Gas Association and the National Gas Reserve Study use proved reserve definitions that are in the public record. In the National Gas Reserve Study the definition of reserves used throughout the study is stated clearly and explicitly in the report so that ambiguity does not cloud the presentation of the results. Any interested individual can judge them on the basis of professional quality, procedural correctness and thoroughness of the study. Until the FTC investigation has been subjected to the same public scrutiny, evaluation of their investigation should be withheld.

More detailed comments with respect to the FPC Staff's National Gas Reserves Study and with regard to the remarks of Dr. Pifer and Mr. Halverson of the FTC can be found in the enclosed letter to the Honorable Philip A. Hart submitted by Dr. Paul J. Root, former Technical Director of the Commission's National Gas Survey.

Dr. Schwartz assails the Staff draft conclusion that some gas will be left in the ground because the average cost is higher than the marginal cost of finding new supplies. The falsity of this contention has been addressed in the foregoing comments on the letter submitted by Dr. Wald.

One of the key pitfalls in sweeping generalizations is that internal inconsistencies may result. Dr. Schwartz in his comments supports the concept of cost based rates for natural gas and at the same time concludes that to avoid producer's holding back gas in expectation of higher prices, once a new price is determined an indefinite moratorium must be imposed as to future price increases. It is virtually impossible to reconcile the concept of cost based rates with a moratorium on increases. Dr. Schwartz's allowance for adjustment for variable costs due to inflation is no solution. Even without inflation, the costs of production will increase due to factors such as increasing well depths and operations in varying, more difficult geological provinces. Moreover, since cost based rates are found on an historical test period analysis, a moratorium would serve only to impose a "cost based rate" which may, in fact, have no cost basis, for the period during which it is in effect. It is difficult to discern the wisdom of establishing a moratorium on price increases while at the same time proposing that such prices be cost justified.

Generally, the Staff Report is a balanced presentation of current problems and options, with which we agree. Enclosed, herewith, is a copy of Commission Opinion No. 659 setting forth the Commission's views on the competitive nature of the natural gas producing industry. In addition it is our understanding that the statement of Chairman Nassikas before the U.S. Senate Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary has been forwarded to your Committee. These documents, in my judgment, also reflect to a substantial degree the thoughts of our staff, indicating only limited areas of disagreement with the Staff Report prepared by Miss Starratt.

While I assume full responsibility for the foregoing comments they are the product of joint efforts of the Office of General Counsel and the Bureau of Natural Gas.

Respectfully submitted,

FRANK C. ALLEN,
Acting Chief, Bureau of Natural Gas.

Enclosure.

APPENDIX I

EXPLORATORY WELLS DRILLED FOR HYDROCARBONS, 1945-72

Year	Total exploratory wells drilled			Total
	Gas	Oil	Dry	
1945	376	836	4,398	5,610
1946	375	762	4,622	5,759
1947	396	982	5,397	6,775
1948	365	1,098	6,550	8,013
1949	424	1,406	7,228	9,058
1950	431	1,583	8,292	10,306
1951	454	1,763	9,539	11,756
1952	559	1,776	10,090	12,425
1953	699	1,981	10,633	13,313
1954	726	1,985	10,389	13,100
1955	874	2,236	11,832	14,942
1956	822	12,267	13,118	16,207
1957	865	1,945	11,904	14,714
1958	822	1,745	10,632	13,199
1959	1,912	1,702	10,577	13,191
1960	868	1,321	9,515	11,704
1961	813	1,157	9,022	10,992
1962	771	1,211	8,815	10,797
1963	664	1,314	8,686	10,664
1964	577	1,219	8,951	10,747
1965	515	946	8,005	9,466
1966	578	1,030	8,705	10,313
1967	556	1,039	7,464	9,059
1968	430	863	7,586	8,879
1969	616	1,084	8,001	9,701
1970	431	790	6,422	7,693
1971	637	651	5,834	6,922
1972	601	684	6,254	7,539

¹ Peak year.

Sources: World Oil, American Association of Petroleum Geologists, and American Petroleum Institute.

NEW-FIELD WILDCAT WELLS DRILLED, 1945-72

Year	New field wildcat wells drilled			Total
	Gas	Oil	Dry	
1945	119	224	2,685	3,028
1946	97	236	2,800	3,133
1947	119	275	3,086	3,480
1948	135	366	3,795	4,296
1949	142	364	3,943	4,449
1950	130	462	4,698	5,290
1951	109	515	5,505	6,189
1952	185	556	5,957	6,698
1953	193	581	6,151	6,925
1954	263	639	6,478	7,380
1955	260	1,659	7,186	8,105
1956	240	628	17,874	8,742
1957	282	590	7,142	8,014
1958	268	518	6,164	6,950
1959	306	466	6,259	7,031
1960	297	448	6,575	7,320
1961	316	429	6,164	6,909
1962	1,317	470	6,007	6,795
1963	240	529	5,801	6,570
1964	252	440	5,931	6,623
1965	234	397	5,544	6,175
1966	232	403	5,523	6,158
1967	179	365	4,727	5,271
1968	127	321	4,757	5,205
1969	191	344	5,421	5,956
1970	184	309	4,576	5,069
1971	202	232	4,028	4,462
1972	272	294	4,520	5,086

¹ Peak year.

Sources: World Oil, American Association of Petroleum Geologists, and American Petroleum Institute.

TOTAL WELLS DRILLED FOR HYDROCARBONS, 1945-72

Year	Total wells drilled			
	Gas	Oil	Dry	Total
1945	2,637	13,738	7,226	23,601
1946	3,510	15,962	8,503	27,975
1947	3,809	17,478	9,546	30,833
1948	3,387	21,760	11,512	36,659
1949	3,363	21,352	12,597	37,492
1950	3,439	23,812	14,799	42,050
1951	3,438	23,179	17,026	43,643
1952	3,514	23,290	17,759	44,563
1953	3,968	25,323	18,449	47,640
1954	4,038	28,141	18,930	51,109
1955	4,266	30,432	20,452	55,150
1956	4,531	30,528	22,111	57,170
1957	4,475	27,364	20,156	51,995
1958	5,005	23,774	18,162	46,941
1959	4,931	24,043	18,589	47,563
1960	5,129	22,233	18,185	45,547
1961	5,459	21,413	17,382	44,254
1962	5,353	21,727	17,078	44,158
1963	4,570	20,135	16,762	41,467
1964	4,694	19,905	17,694	42,293
1965	4,482	18,065	16,226	38,773
1966	4,321	16,216	15,193	35,730
1967	3,659	15,329	13,246	32,234
1968	3,456	14,331	12,812	30,599
1969	4,083	14,368	13,736	32,187
1970	3,840	13,020	11,260	28,120
1971	3,830	11,858	10,163	25,851
1972	4,928	11,306	11,057	27,291

¹ Peak year.

Sources: World Oil, American Association of Petroleum Geologists, and American Petroleum Institute.

Senator KENNEDY. Mr. Tourtellotte.

Would you raise your hand?

Do you swear to tell the truth, the whole truth, and nothing but the truth?

STATEMENT OF JAMES TOURTELLOTTE, TRIAL ATTORNEY, OFFICE OF GENERAL COUNSEL, FEDERAL POWER COMMISSION

Mr. TOURTELLOTTE. I do.

Senator KENNEDY. Would you state your position?

Mr. TOURTELLOTTE. Currently I am a trial attorney with the Federal Power Commission. I have supervisory responsibility over a number of attorneys. We deal primarily with the corporate regulation, parts 2 and 3 of the Federal Power Act, policy considerations on amortization of reserves under part 1, all matters of policy concerning the National Environmental Policy Act, and intergovernmental relations.

Senator KENNEDY. What was your relation with the R-405 original?

Mr. TOURTELLOTTE. I drafted the R-405 order, the original order, and I supervised the first phase.

Senator KENNEDY. What were the procedures for collecting the data?

Mr. TOURTELLOTTE. Well, basically, it amounted to getting the companies to appear at one of three places, either Houston, Tex., Tulsa, Okla., or Washington, D.C., and present us with answers to an inquiry which we sent to them. We took their answers and transcribed them to worksheets, and then returned the information that they had to them on the spot.

Now, that was what we called for. In a couple of instances some of the companies mailed this material to Washington rather than coming in. What we did in those instances was to take what information we could get off of the forms that were returned and sent back their original information.

I do recall one instance where a company filled out the form that we had sent them and put their name on it. Because we did not want the companies identified, we cut the name off after we had checked them off the list.

Senator KENNEDY. So you did not hold onto the materials themselves?

Mr. TOURTELLOTTE. We did not hold the material.

Senator KENNEDY. And it was deposited in a safe belonging to the Administrative Operations?

Mr. TOURTELLOTTE. Well, after we got through compiling the information and making the report, which was directed to the Secretary of the Commission, we took the worksheets down to the Office of Administrative Operations and deposited those worksheets in a safe in their office, in a file safe.

Senator KENNEDY. Do you know whether they were ever destroyed?

Mr. TOURTELLOTTE. No. I have no knowledge of what happened to them after they were deposited in that safe. I have made a search for them myself, and I have not been able to find them. They were not where they were deposited.

Senator KENNEDY. What do you think happened to them?

Mr. TOURTELLOTTE. I draw a complete blank. I have no idea.

Senator KENNEDY. Do you think the information should be kept confidential?

Mr. TOURTELLOTTE. Well, of course, the original order was framed in this context. Certainly I believe that you have a public responsibility, if that is the way you are carrying out your program, to do what you say you are going to do. I think it can be done the other way.

Senator KENNEDY. What way?

Mr. TOURTELLOTTE. It can be done in an unconfidential way.

Senator KENNEDY. Pardon?

Mr. TOURTELLOTTE. It can be done in such a way that the material is not held confidential.

Senator KENNEDY. Do you think that would be useful or helpful?

Mr. TOURTELLOTTE. Well, every story has two sides. It would be probably helpful to some, and at least I am sure the companies feel that it would be detrimental to them.

Senator KENNEDY. But you recognize the power within the Commission itself to gain that information, even if were not going to be held confidential?

Mr. TOURTELLOTTE. Well——

Senator KENNEDY. Do you think the Natural Gas Act gives sufficient authority to the Commission to gain that information?

Mr. TOURTELLOTTE. Let me say that as an advocate I could make a case for it either way, and I certainly could make a case for it not being held confidential.

Senator KENNEDY. Why?

What do you think would best serve the public?

Mr. TOURTELLOTTE. Well, I really have not given it any thought. I do know that it depends on what public interests we are after, and I really have not thought about it.

Senator KENNEDY. Should the Office of Economics have this kind of information?

Mr. TOURTELLOTTE. You mean confidential or unconfidential?

Senator KENNEDY. Confidential.

Mr. TOURTELLOTTE. Well, Senator, let me put it this way: I was charged with the responsibility of the original R-405, and along with that was the responsibility to keep this matter confidential. I feel that if I have the individual responsibility to assure confidentiality, that I have the authority to carry out my responsibility and make sure that it is held confidential. To get to your question, I have absolutely no trust in the Office of Economics for holding anything confidential. And I would not turn it over to them unless I were directed to do so by the Commission.

Senator KENNEDY. Well, why do you say that?

I mean, why do you reach that conclusion?

Mr. TOURTELLOTTE. Well, it has just been a matter of observation since I have been employed at the Commission.

Senator KENNEDY. That they cannot handle confidential material?

Mr. TOURTELLOTTE. Well, it more or less centers around controversies which have arisen in the press that involve the Federal Power Commission, and a large number of those cases that involve internal conflicts. Inevitably the internal conflict that exists is between the Office of Economics and someone else. And it always is indicative—I mean, if you read those press stories, it is apparent that these cases arise when the Office of Economics does not get its way in something. And I would hesitate to provide them with any information which I thought they would disagree with, or would use in a way that would be detrimental to the Commission.

Senator KENNEDY. Well, have you ever conducted an investigation or recommended one to find out about the leaks?

Mr. TOURTELLOTTE. I have made no formal request.

Senator KENNEDY. Why not?

Mr. TOURTELLOTTE. I do not have any—I have no status.

Senator KENNEDY. Pardon?

Mr. TOURTELLOTTE. I have no status. If I could recommend one, I would recommend one. I would even urge that whoever is guilty of these leaks be fired on the spot.

Senator KENNEDY. Is it your belief that confidential information has actually been leaked by the Office of Economics?

Mr. TOURTELLOTTE. I am trying to recall the instances.

Senator KENNEDY. Well, the minority counsel has mentioned the fact that on two different occasions that there had been determined that actually there had been leaks or rumors.

Mr. CHUMBRIS. Yes. I quoted from pages 47 and 48 of the transcript that was given to me of the statement, I believe, of Dr. Wald.

Senator KENNEDY. But you do not know, you do not have personal knowledge or information?

Mr. TOURTELLOTTE. No. The statement that I made that I would not provide the information to the Office of Economics is based upon my own observations of what has gone on in the past relative to information that has come into their possession. And I have quoted to some of the people that work for me that, to paraphrase an old country and western song, don't telegraph, don't telephone, tell

Economics and word will get around. And that is the way I feel. I must say I have worked with Economics on a number of occasions, and we get along in the working circumstances. But that does not alter the fact that I would not entrust them with any information that I wanted kept confidential.

Senator KENNEDY. Well, the only problem is that obviously there is a difficult relationship which exists over there in the Commission, and if there are these rumors or allegations or charges, they really ought to either be substantiated or investigated, and proved or dispelled. I do not see that the public interest is advanced by just having questions or allegations that there were charges.

Mr. TOURTELLOTTE. I would certainly agree with that. I would certainly agree that it should be investigated, and that if leaks were found, whatever action would be taken should be taken in the most severe form.

Senator KENNEDY. Thank you very much.

The subcommittee will recess until 9:30 tomorrow, when we will hear from Mr. Wilson of the FPC Office of Economics, and Mr. Nassikas, the Chairman of the Federal Power Commission.

[Whereupon, at 12:37 p.m., the subcommittee adjourned to reconvene Thursday, October 18, 1973, at 9:30 a.m., in room 2228, Dirksen Senate Office Building.]

THE NATURAL GAS INDUSTRY

(Attempted Destruction of FPC Documents)

THURSDAY, OCTOBER 18, 1973

U.S. SENATE,
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY AND
SUBCOMMITTEE ON ADMINISTRATIVE PRACTICES AND
PROCEDURES OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittees met, pursuant to notice, at 9:40 a.m., in room 2228, Dirksen Senate Office Building; Senator Philip A. Hart, chairman of the Subcommittee on Antitrust and Monopoly; Senator Edward M. Kennedy, chairman of the Subcommittee on Administrative Practice and Procedure.

Present: Senator Edward M. Kennedy, presiding.

Staff present: Subcommittee on Antitrust and Monopoly—Charles E. Bangert, general counsel; Bernard Nash, assistant counsel; Patricia Bario, editorial director; Janice Williams, chief clerk; Peter N. Chumbris, minority chief counsel; Charles E. Kern II, minority assistant counsel; Subcommittee on Administrative Practice and Procedure—Thomas M. Susman, assistant counsel.

Senator KENNEDY. The subcommittees will come to order.

This is our final day of joint hearings on the Federal Power Commission survey of natural gas reserves, the Commission's handling of the documents obtained in the course of that survey.

Our first witness this morning, Mr. John Wilson, will be accompanied by Mr. Donkin. Gentlemen, we want to welcome you.

I would like to swear you in. Would you please raise your hand? Do you swear the testimony you are about to give is the whole truth and nothing but the truth, so help you God?

STATEMENT OF JOHN W. WILSON, CHIEF, DIVISION OF ECONOMIC STUDIES, FEDERAL POWER COMMISSION; ACCCOMPANIED BY GEORGE L. DONKIN, INDUSTRY ECONOMIST, DIVISION OF ECONOMIC STUDIES, FEDERAL POWER COMMISSION

Mr. WILSON. Yes, I do.

Mr. DONKIN. Yes, I do.

Mr. WILSON. Mr. Chairman, the testimony which I am presenting today was prepared pursuant to a request from the chairman of the Antitrust and Monopoly Subcommittee to the Chairman of the Federal Power Commission requesting my assistance to the subcommittee in interpreting and evaluating the gas reserve data contained in the documents which are the subject of these hearings.

In accordance with Chairman Nassikas' instructions directing me to comply with the subcommittee's request, I reviewed the gas reserve documents at the subcommittee's offices under security conditions imposed by the subcommittee's staff. At the direction of the subcommittee's general counsel, I have intentionally structured my testimony so as to avoid identifying the individual reserve reports of individual companies.

Table 1, which is appended to my testimony, consists of the "available gas reserves" concentration ratios which were compiled earlier from the documents in question by the Federal Power Commission staff and which were reported to the Antitrust and Monopoly Subcommittee in my testimony of June 26, 1973. My review of the individual company reports indicates that these calculations were accurate.

In addition, I have made three supplementary calculations which are presented in Table 2. Whereas the Federal Power Commission's original tabulation gave subarea concentration figures for "federal offshore", "state offshore", and "onshore" reserves in the South Louisiana and Texas Gulf Coast areas, for purposes of market analysis it is desirable to have aggregate concentration figures for each of these areas because it is generally the case that major pipelines have access to both onshore and offshore reserves in most of their supply areas. By subdividing the areas into three component parts, the geographic scope of the relevant market may be understated. The aggregate areawide concentration ratios are therefore a more comprehensive measure of market concentration.

In addition to these two areawide concentration measures, I have also calculated concentration ratios for all reported available gas reserves from federally owned acreage in the Gulf of Mexico. This also appears in Table 2. Apparently the top four firms account for over half of the reserves available from federally owned acreage and the top eight account for over three quarters of the total. Since these are the primary producing areas in the continental United States over which the Federal Government exercises direct control, the apparently high degree of ownership concentration may be viewed as a consequence of Federal leasing policies which tend to inhibit the entry of relatively small firms and thereby serve to encourage market control by the large producers.

Table 3, appended to my testimony, is a report of market concentration ratios compiled on a multi-area, aggregated basis for each of the major interstate pipeline networks. For example, if a pipeline serving the Northeast contains gas supplies from the South Louisiana, Appalachia, and Texas Gulf Coast areas, it can be argued that for this pipeline the proper market definition, the supply market definition, should include all three geographic supply areas. The actual supply market, in other words, varies from pipeline to pipeline, and the ratios reported in Table 3 are an effort to describe market concentration in terms of the unique geographic supply circumstances facing each major pipeline network. The pipelines represented in Table 3 account for over 90 percent of our interstate natural gas supplies, and the individual supply concentration ratios reported for each pipeline include supplies from all major producing areas from which a given pipeline obtained 5 percent or more of its 1971 sales volume.

The major conclusion which can be drawn from this table is that even on a multiarea basis, the major interstate natural gas pipelines appear to be facing a situation in which, at any given time, their top four potential suppliers account for roughly 50 to 75 percent of new available gas reserves.

Another important factor which emerges from these data is that the large integrated petroleum majors are an important market force in every producing area. The top 10 producers of natural gas nationally in 1971 were: Exxon; Shell; Amoco; Gulf; Phillips; Mobile; Texaco; Union Oil; Atlantic Richfield; and Continental.

As of June 30, 1972, at least four of these largest producers were among the top eight suppliers of available reserves in each major producing area. In the Texas Gulf Coast and other Southwest areas all of the top four firms were from among these top 10 majors; in fact, three of the four producers were the same in both areas. In the South Louisiana and Permian areas, three of these majors were among the top four suppliers, and in the Rocky Mountain and Hugoton-Anadarko areas two of the top four suppliers—and four of the top eight—were among the firms on this list. Two individual producers on the list ranked among the top four producers in five out of the six areas. One firm, which ranked among the top eight in every area, was first in two, second in one, third in one, fourth in two, and fifth in the last. Of the top four ranking firms in each of the six areas, that is, 24 possible places in all, 22 places were accounted for by major integrated oil companies, one was a pipeline subsidiary, and one was an independent.

Finally, it should be noted that on a national basis, the eight largest holders of available reserves were precisely the same firms on June 30, 1972, as on December 31, 1971. In other words, not only are the majors dominant, but their dominance tends to be stable over time. This finding is consistent with the fact that the top eight producers in 1971 were among the top nine producers 15 years earlier, with the ninth having been absorbed through merger.

These findings are, of course, based on the assumption that the producer reports to the FPC were an accurate and truthful representation of actual available reserves. Indeed, if that assumption is incorrect, no alternative analysis of this type is possible at the present time because no other comparable data are available. Moreover, since the FPC has changed its data collection procedures subsequent to the issuance of the Senate subpoena for these documents by the Antitrust and Monopoly Subcommittee, adequate data of a similar type is not likely to be available in the future. Already, a number of important producers have indicated that they will no longer report this information to the FPC now that the Commission has reacted to the subpoena by making future industry reporting optional rather than mandatory.

While, on one hand, these data must be accepted at face value simply because they have never been audited against actual company records, there are nevertheless some potentially disquieting but inconclusive apparent inconsistencies between the reports contained in these documents and other available evidence.

For example, one major producer with tens of millions of dollars tied up in Federal leases which have been drilled and which are classified as "producing—shut-in" by the Interior Department, these

leases covering tens of thousands of offshore acres in the south Louisiana area, reported zero available reserves in south Louisiana as of June 30, 1972. Similarly, two other producers, also with millions of dollars tied up in over 20,000 acres each of "producing—shut-in" Federal leases which also have been drilled, reported zero available reserves in south Louisiana on both June 30, 1972 and December 31, 1971. In addition, more than 10 other large producers, with thousands of acres of drilled and "shut-in" offshore Louisiana leases costing millions of dollars, filed reports claiming zero available reserves.

There are also a number of situations, involving at least five different companies, where reports were filed indicating nonexistent or very low reserve figures, and within a matter of weeks thereafter, substantial sales contracts were filed with the Federal Power Commission. In one case, two major petroleum companies, who hold many substantial joint interests with each other in Federal offshore leases, who are producing partners, and who have, in fact, entered into substantial joint sales contracts within the period covered by these reports, submitted highly questionable statements purporting that their respective available reserves differed by well over 2,000 percent.

In short, while it would be possible to document case after case of suspicious reserve reporting contained in these documents, it may be that this is another most unfortunate instance in which semantic juggling has rendered the resulting numbers meaningless. This subcommittee already has seen how deceptive distinctions between one's definition of "proved reserves" can result in measurements which differ by magnitudes of 2 to 10 times. No doubt, imaginative minds could concoct such distinctions with respect to "available reserves" as well, thereby rendering these reports equally useless.

Unfortunately, the numbers reported here are all that exist. Clearly they are grossly inadequate. The evidence strongly suggest that the reporting procedures are poor; auditing has been nonexistent; and any leeway, semantic or otherwise, has apparently been abused. Surely, if we have any serious hope of gaining a better understanding about the real roots of our "energy crisis," better information is absolutely indispensable.

That concludes my prepared statement.

[The following tables, previously mentioned and appended to Mr. Wilson's prepared statement, were received for the record. Testimony resumes on p. 1042.]

TABLE I.—CONCENTRATION OF THE AVAILABLE NEW GAS SUPPLIES AS OF DEC. 31, 1971 AND JUNE 30, 1972¹
(PERCENTAGE OF REPORTED UNCOMMITTED RESERVES CONTROLLED BY 4 AND 8 LARGEST PRODUCERS)²

Producing area	Dec. 31, 1971		June 30, 1972	
	4 largest	8 largest	4 largest	8 largest
Permian Basin-----	63.6	86.4	80.6	94.2
Hugoton/Anadarko-----	76.6	94.5	62.6	83.3
Other Southwest-----	93.3	98.6	94.4	99.3
South Louisiana: ³				
Onshore-----	96.9	99.6	92.3	98.4
Offshore (Federal)-----	57.0	83.3	49.6	74.9
Offshore (State)-----	84.5	100.0	94.9	100.0
Texas Gulf Coast: ⁴				
Onshore-----	89.4	96.7	84.4	92.4
Offshore (Federal)-----	98.5	100.0	100.0	100.0
Offshore (State)-----	100.0	100.0	100.0	100.0
Rocky Mountain-----	63.4	82.9	70.4	86.0
Appalachian-----	99.6	100.0	100.0	100.0

See footnotes at end of table p. 00.

TABLE 1.—CONCENTRATION OF THE AVAILABLE NEW GAS SUPPLIES AS OF DEC. 31, 1971 AND JUNE 30, 1971—Continued

(PERCENTAGE OF REPORTED UNCOMMITTED RESERVES CONTROLLED BY 4 AND 8 LARGEST PRODUCERS)¹

Producing area	Dec. 31, 1971		June 30, 1972	
	4 largest	8 largest	4 largest	8 largest
Unclassified:				
Michigan.....	100.0	100.0	-----	-----
California.....	95.4	100.0	94.3	100.0
Miscellaneous.....	87.7	99.9	98.0	100.0
Alaska ⁵	93.9	99.9	93.9	99.9
Total United States ⁴	51.4	75.9	51.0	73.9

¹ Concentration ratios are based on individual company reserve reports. To the extent that two or more companies report pro rata ownership shares of jointly held leases for which there is a single operation, the concentration ratios tend to underestimate the actual degree of seller concentration.

² Reports were obtained from 79 large producers. These producers provide most of the gas sold to interstate pipelines (e.g., in 1971 the top 22 supplied over 70 percent of all interstate gas). Nevertheless, to the extent that nonreporting small producers may have had significant volumes, the ratios reported here tend to slightly overstate actual market concentration.

³ Combined concentration ratios for the South Louisiana area are not available. Onshore represents 44 percent of the total, offshore (Federal) 53 percent, and offshore (State) 3 percent.

⁴ Combined concentration ratios for the Texas Gulf Coast area are not available. Onshore represents 47 percent of the total, offshore (Federal) 51 percent and offshore (State) 2 percent.

⁵ Does not include 26 trillion cubic feet in North Slope Reserves reported in the aggregate for all companies by one producer.

TABLE 2.—ADDITIONAL CONCENTRATION RATIOS NOT REPORTED IN TABLE 1¹

[In percent]

Area	June 30, 1972	
	4 largest	8 largest
All South Louisiana (onshore and offshore).....	46.1	69.9
All Texas Gulf Coast (onshore and offshore).....	78.4	92.9
Gulf Coast Federal domain (Texas and Louisiana).....	50.9	76.7

¹ See footnotes to table 1.

TABLE 3.—CONCENTRATION OF AVAILABLE NATURAL GAS RESERVES, BY PIPELINE SUPPLY AREA, JUNE 30, 1972

Pipeline	4-firm supply concentration ratio (percent)	Major supply areas	Percent of 1971 supply for each area
Columbia Gas.....	51.15	Southern Louisiana..... Texas Gulf Coast..... Appalachia.....	81.7 5.2 7.8
El Paso.....	61.33	Permian..... Hugoton-Anadarko..... Rocky Mountain.....	54.2 7.2 34.5
Michigan-Wisconsin.....	45.13	Southern Louisiana..... Hugoton-Anadarko.....	65.0 29.5
Lone Star.....	76.04	Other Southwest..... Texas Gulf Coast..... Permian..... Hugoton-Anadarko..... Other Southwest.....	33.9 35.6 21.7 8.6 19.4
Cities Service.....	81.93	Hugoton-Anadarko..... Other Southwest.....	80.6
Natural Gas Pipeline.....	49.32	Southern Louisiana..... Other Southwest..... Texas Gulf Coast..... Permian..... Hugoton-Anadarko.....	17.7 8.4 37.2 15.5 20.9
Northern Natural.....	71.60	Permian..... Hugoton-Anadarko.....	50.4 49.0
Panhandle Eastern.....	81.93	Other Southwest..... Hugoton-Anadarko.....	30.7 65.4
Southern Natural.....	47.91	Southern Louisiana..... Other Southwest.....	78.3 21.7
Tennessee.....	51.39	Southern Louisiana..... Texas Gulf Coast.....	75.3 20.6

TABLE 3.—CONCENTRATION OF AVAILABLE NATURAL GAS RESERVES, BY PIPELINE SUPPLY AREA, JUNE 30, 1972—Continued

Pipeline	4-firm supply concentration ratio (percent)	Major supply areas	Percent of 1971 supply for each area
Texas Eastern	52.47	Southern Louisiana	55.9
		Other Southwest	10.5
Texas Gas Trans	47.91	Texas Gulf Coast	30.2
Transcontinental	51.39	Southern Louisiana	90.6
Trunkline	51.39	Other Southwest	9.6
United	52.47	Texas Gulf Coast	82.5
Transwestern	71.60	Southern Louisiana	17.4
		Texas Gulf Coast	75.8
		Permian	24.4
		Hugoton-Anadarko	77.9
			12.9
			9.3
			76.3
			22.0

Senator KENNEDY. Well, let us hear Mr. Donkin. Then we will go to some questions.

Mr. DONKIN. Mr. Chairman, by letter dated October 10, 1973, the chairman of the Antitrust and Monopoly Subcommittee requested that I appear here today to present testimony pertinent to Federal offshore leases which are classified "producing shut-in."

In the fall of last year, the Division of Economic Studies began an extensive analysis of market structure within the natural gas producing industry. During the course of this study, it became apparent that offshore oil and gas leases are generally acquired and operated by combines consisting of two or more petroleum companies.

To augment our analysis, in January of this year we obtained, from the Bureau of Land Management, detailed information relative to all current Federal oil and gas leases located offshore Louisiana and Texas. Specifically, we received copies of the Serial Register Pages maintained by BLM for each Outer Continental Shelf Federal lease.

A Serial Register Page describes the location and size of the lease, the original and current owners, the date the lease was acquired and the bonus paid by the lessees to the Federal Government. During our analysis of the Serial Register Pages, it was recognized that a large number of Federal offshore leases are classified "producing shut-in." Moreover, the dates associated with this notation revealed that a large number of these leases have maintained this classification for many years.

Communications with BLM in New Orleans disclosed that a lease is classified "producing shut-in" only after formal notification by the U.S. Geological Survey. This classification is assigned by USGS to leases upon which at least one well has been drilled that is capable of producing oil or gas in commercial quantities. In other words, where it is known that production would be a paying endeavor. The purpose of this classification is to enable the lease, in the absence of actual production, to be extended beyond its primary term of 5 years.

The Geological Survey's OCS order No. 4 contains the following provisions: (1) An OCS lease provides for extension beyond its primary term for as long as oil or gas may be produced from the lease in paying quantities; (2) an OCS lease may be maintained beyond the

primary term, in the absence of actual production, when a suspension of operations or production, or both, has been approved; and (3) the supervisor may approve a suspension of production provided at least one well has been drilled on the lease and determined to be capable of being produced in paying quantities.

Those leases containing one or more wells capable of producing in paying quantities in January of this year are listed in table 1. As of that date, there were 167 offshore Louisiana Federal leases classified "producing shut-in." These are leases on which wells have been drilled and which have been shown to be capable of production, but from which the petroleum industry is not producing. In many cases, though wells were drilled years ago, no production has ever taken place. Nevertheless, these companies have been able to retain exclusive ownership rights to the available resources. These leases represent more than 743,000 nonproductive acres and they account for over \$767 million in lease bonus payments. Seventy-one of these 167 leases were classified "producing shut-in" prior to 1968.

Offshore Texas, there were 18 Federal leases capable of producing in paying quantities. These leases represent an additional 95,040 nonproducing acres for which petroleum companies paid more than \$204 million in bonuses.

The top 10 owners of "producing shut-in" leases appear in table 2. Chevron, the producing division of Standard Oil of California, leads the list for offshore Louisiana with almost 92,000 net acres and 24 leases. Texaco is second with over 71,000 net acres and 25 leases, followed by Exxon, Shell and Tenneco, each of which had more than 40,000 acres in the "producing shut-in" category at the beginning of this year.

Texaco was the leading holder of shut-in acreage offshore Texas, with 9 leases containing over 37,000 net acres. Mobil and Union Oil were second, each having just over 17,000 acres on 6 shut-in leases. Exxon was fourth with 2 leases covering 5,760 acres classified "producing shut-in" by BLM.

While it seems quite apparent from this evidence that there is a substantial nonproductive petroleum potential which is being held by certain major oil companies, no ultimate recovery data have been reported as to just how much oil and gas these acres contain. Geological maps of the area involved indicate that most of these properties contain gas acreage. But as in a number of other important situations, only the oil companies themselves have the detailed information that is required to fully assess the significance of the relationship between these 838,000 idle acres and present oil and gas shortages.

[The following tables, previously mentioned and appended to Mr. Donkin's prepared statement, were received for the record. Testimony resumes on p. 1049.]

TABLE 1.—OFFSHORE FEDERAL LEASES CLASSIFIED PRODUCING SHUT-IN AS OF JANUARY 1973

SOUTH LOUISIANA

OCS serial No.	Acres	Date of lease sale	Area	Block No.	Bonus (thousands)	Date classified shut-in by BLM	Lease owners
431	5,000	Oct. 13, 1954	Eugene Island.....	192	\$167	Jan. 11, 1960	Amoco.
433	625	do.....	Vermillion.....	178	526	Jan. 20, 1965	Chevron.
467	2,500	do.....	West Cameron.....	168	128	do.....	DECO, Exchange, Burmah, South Coast.
471	5,000	July 12, 1955	Eugene Island.....	172	3,666	do.....	Kerr McGee, Gulf.
528	2,500	do.....	East Cameron.....	125	750	do.....	Phillips, Kerr McGee, Gulf.
544	2,500	do.....	Vermillion.....	161	600	do.....	Texaco.
554	5,000	do.....	Eugene Island.....	57	94	do.....	Amoco, Texaco.
572	5,000	do.....	do.....	193	133	do.....	Do.
575	2,500	do.....	do.....	207	3,250	do.....	Do.
578	2,500	do.....	do.....	215	1,000	do.....	Do.
605	2,500	do.....	South Timbalier.....	86	3,670	do.....	DECO, Atlantic Richfield, El Paso, C & K.
779	5,000	Feb. 24, 1960	South Marsh Island.....	32	125	do.....	Amoco, Texaco.
785	5,000	do.....	do.....	33	138	do.....	Do.
795	5,000	do.....	Eugene Island.....	99	1,187	do.....	Forest, Texas Gas, Columbia.
818	5,000	do.....	Ship Shoal.....	167	2,675	Apr. 22, 1965	Tenneco.
821	5,000	do.....	do.....	183	8,108	June 22, 1965	Texaco.
823	5,000	do.....	do.....	186	4,116	Jan. 20, 1965	Pemboil, Consolidated, Dixilyn, Argonaut.
831	5,000	do.....	do.....	230	5,005	do.....	Kerr McGee, Cabot, Felmont, Case-Pomeroy.
832	5,000	do.....	do.....	242	753	do.....	Do.
909	5,000	Mar. 13, 1962	West Cameron.....	276	561	do.....	Texaco.
938	5,000	do.....	East Cameron.....	118,119	156	(1) 575	Forest, Consolidated, Columbia, C & K, Coastal, Waymon G. Peavy, Harbert, Jenney, Kirby, H. C. Price Co., State Marine Lines.
963	5,000	do.....	do.....	219	212	May 31, 1967	Tenneco.
965	5,000	do.....	do.....	224	157	do.....	Texaco.
970	5,000	do.....	do.....	245	127	Apr. 22, 1965	Chevron.
973	5,000	do.....	do.....	266	150	do.....	Shell.
976	5,000	do.....	Eugene Island.....	106	106	do.....	Forest, Columbia.
981	5,000	do.....	do.....	237	4,120	do.....	Gulf.
999	5,000	do.....	Ship Shoal.....	58	575	Oct. 27, 1965	Southern, Offshore, Argonaut, Pennzoil, Occidental, Midwest, Dixilyn, ODECO, Aquitaine, Murphy, Superior, Hanna, TransOcean, Acasa.
1,019	2,500	do.....	do.....	182	46	Oct. 16, 1967	Tenneco.
1,027	5,000	do.....	do.....	246	110	do.....	Amoco.
1,028	5,000	do.....	do.....	247	658	do.....	Consolidated, Columbia, Texas Gas.
1,029	5,000	do.....	do.....	248	2,228	do.....	Consolidated, Exchange, Dixilyn, Petro.
1,030	5,000	do.....	do.....	249	1,108	Oct. 16, 1967	Chevron.
1,035	5,000	do.....	do.....	268	318	do.....	Consolidated, Exchange, Dixilyn, Petro.
1,037	5,000	do.....	do.....	270	458	do.....	Columbia, Texas Gas.
1,038	5,000	do.....	do.....	271	658	Apr. 22, 1965	Forest, Consolidated, Columbia, Texas Gas.
1,040	5,000	do.....	do.....	275	(1)	do.....	ODECO, Sun, Murphy, Burnham, Petro, Aquitaine.

TABLE I.—OFFSHORE FEDERAL LEASES CLASSIFIED PRODUCING SHUT-IN AS OF JANUARY 1973—Continued

SOUTH LOUISIANA—Continued

OCS serial No.	Acres	Date of lease sale	Area	Block No.	Bonus (thousands)	Date classified shut-in by BLM	Lease owners
1,512	5,000	June 13, 1967	Ship Shoal	134	753	Feb. 7, 1972	Do.
1,526	5,000	do	do	223	1,380	Apr. 1, 1970	ODECO, Sun, Murphy, Burmah, Peltro, Aquitaine, Signal, L.L. & E., Amerada, Marathon.
1,534	5,000	do	do	295	7,628	May 1, 1970	Do.
1,535	5,000	do	do	296	5,309	Feb. 7, 1970	Chevron.
1,541	5,000	do	do	316	1,152	July 31, 1972	Continental, Atlantic.
1,542	5,000	do	do	317	1,607	July 6, 1970	Chevron.
1,550	2,148	do	do	86	1,201	Jan. 23, 1969	Continental, Cities Service.
1,555	1,560	do	do	123	258	Mar. 5, 1968	Do.
1,562	1,562	do	do	140	113	Apr. 3, 1970	D. & G. Futures, ODECO, Murphy, Aquitaine.
1,564	5,000	do	do	178	7,055	Oct. 2, 1972	Continental, Atlantic, Getty, Cities Service.
1,566	5,000	do	do	180	1,033	July 11, 1972	C. & K., Consolidated.
1,567	5,000	do	do	181	555	do	Do.
1,568	5,000	do	do	184	302	do	C. & K.
1,569	5,000	do	do	185	3,762	June 1, 1972	Continental, Atlantic, Getty, Cities Service.
1,580	2,500	do	do	32	804	Nov. 1, 1972	Do.
1,582	5,000	do	do	45	1,704	June 1, 1972	Do.
1,583	5,000	do	do	77	2,542	May 1, 1972	D. & G. Futures, H. W. Bass & Sons, Sharpet, SAG.
1,585	4,540	do	do	89	2,505	Apr. 5, 1971	Chevron.
1,586	5,000	do	do	90	20,905	July 6, 1970	Chevron, Continental, Atlantic, Getty, Cities Service.
1,594	5,000	do	do	112	3,511	June 1, 1972	Chevron.
1,597	5,081	do	do	137	5,012	do	Do.
1,598	5,000	do	do	138	6,414	Nov. 7, 1969	Tenneco.
1,609	5,000	do	do	61	9,125	Jan. 23, 1969	Gulf.
1,611	4,310	do	do	66	6,400	June 1, 1972	Do.
1,612	5,000	do	do	67	17,671	Aug. 1, 1972	Chevron.
1,618	6,118	do	do	89	4,612	July 6, 1970	Signal, L.L. & E., Amerada, Marathon.
1,619	5,000	do	do	93	2,283	Sept. 1, 1972	Exxon.
1,620	3,540	do	do	94	1,037	Sept. 8, 1970	Gulf.
1,629	4,994	do	do	122	8,605	Feb. 1, 1972	Chevron, Mobil.
1,633	4,991	do	do	133	5,352	Apr. 3, 1970	Do.
1,635	4,994	do	do	145	6,815	do	Continental, Tenneco.
1,649	4,994	do	do	237	2,856	July 3, 1972	Chevron.
1,658	4,994	do	do	266	5,251	May 7, 1971	Exxon.
1,662	4,924	do	do	273	2,237	Sept. 30, 1968	Signal, L.L. & E., Amerada, Marathon.
1,665	4,561	do	do	288	6,02	July 3, 1972	Continental, Tenneco, Cities Service.
1,888	2,500	Jan. 14, 1969	South Timbalier	148	2,561	Nov. 7, 1969	Do.
1,900	2,270	do	Grand Isle	62	530	Feb. 7, 1972	Chevron.
1,955	5,000	Dec. 16, 1969	Vermilion	265	10,512	May 7, 1970	Exxon.
1,972	1,250	July 21, 1970	East Cameron	33	5,111	Feb. 7, 1972	Mobil Atmos.
1,977	2,500	do	Vermilion	267	11,018	Sept. 2, 1971	Forest, Consolidated, Columbia, Texas Gas.
1,979	3,750	do	Eugene Island	23	2,662	May 13, 1971	Do.

TABLE 1.—OFFSHORE FEDERAL LEASES CLASSIFIED PRODUCING SHUT-IN AS OF JANUARY 1973—Continued
TEXAS

OCS serial No.	Acres	Date of lease sale	Area	Block No.	Bonus (thousands)	Date classified shut-in by BLM	Lease owners
1,723	5,760	May 21, 1968	Brazos	A-1	11,629	Sept. 8, 1970	Superior, Ashland, Highland, Kerr-McGee, Texas Eastern, TransOcean, General Cruise, Bittes, Texaco.
1,725	5,760	do	do		506	Oct. 7, 1963	
1,731	5,760	do	do		539	Oct. 3, 1972	Forest, Superior, Pennzoil, Texas Eastern, Hamilton Bros.
1,736	5,760	do	do		544	Sept. 3, 1972	Union Oil, Mobil.
1,745	5,760	do	do	A-43	29,151	June 1, 1972	Do.
1,748	5,760	do	do	A-47	3,116	Jan. 7, 1969	Do.
1,754	5,760	do	do	A-102	18,576	Feb. 1, 1972	Do.
1,757	5,760	do	do	A-105	8,133	Jan. 26, 1972	Do.
1,777	5,760	do	do	A-255	1,001	July 6, 1970	Coastal States, American Petrofina, Samedan.
1,807	5,760	do	do	A-84	8,142	Oct. 7, 1969	Mobil, Union Oil.
1,812	1,440	do	do	71	2,776	Nov. 7, 1969	Texaco.
1,815	1,440	do	do		72	May 7, 1971	Do.
1,817	5,760	do	do		86	Oct. 13, 1969	Texaco, Exxon.
1,818	5,760	do	do		87	Apr. 3, 1970	Texaco.
1,819	5,760	do	do		88	Oct. 8, 1969	Do.
1,831	5,760	do	do		206	Aug. 41, 1970	Exxon, Texaco.
1,846	5,760	do	High Island East		119	Oct. 7, 1969	Texaco.
1,851	5,760	do	do		A-228	Apr. 1, 1970	Do.
Total	95,040		18 leases				204,557

Source: U.S. Department of Interior.

TABLE 2.—TOP TEN ACREAGE OWNERS OF OFFSHORE FEDERAL LEASES CLASSIFIED PRODUCING SHUT-INS AS OF JANUARY, 1973

		Number of leases	Net working interest (acres)
Louisiana:			
1. Chevron		28	91,980
2. Texaco		25	71,250
3. Exxon		11	47,784
4. Shell		9	43,004
5. Tenneco		15	42,283
6. Amoco		14	32,805
7. Continental		18	26,708
8. Mobil		9	18,619
9. Union Oil		5	17,313
10. Atlantic Richfield		13	17,113
Texas:			
1. Texaco		9	37,440
2. Mobil		6	17,280
3. Union Oil		6	17,280
4. Exxon		2	5,760
5. Coastal States		1	2,520
6. Forest Oil		1	2,520
7. Texas Eastern		1	1,768
8. Pennzoil		1	1,232
9. Kerr-McGee		1	1,152
10. Superior		2	1,018

Source: U.S. Department of Interior.

Senator KENNEDY. If only the oil companies themselves have the information that is required, why doesn't the Federal Power Commission have that?

Mr. DONKIN. It is my understanding, Senator, this—

Senator KENNEDY. As a complete and real novice in this whole area, I am absolutely baffled. When I go back to Massachusetts and talk to people, in group after group, they ask me about the power shortage and the gas shortage. Then, after going through the situation in some detail these past few days, I find out that the Federal Power Commission, on which all of us in Congress are supposed to rely, is supposed to have the information, and they do not get it. They do not request it, it seems.

They say they do not have the authority to get it. You are an authority on the information, not on why Congress and the public are not getting it. You stated that only the oil companies themselves have the detailed information that is required to fully assess the significance and relationship between the idle acres and the present oil and gas shortage. Can you tell me why that is so? Are you not supposed to develop that material?

Mr. DONKIN. I agree with your statement, Senator. I think we badly need this information. Our office would like to have this information. However—

Senator KENNEDY. It is not requested.

Mr. DONKIN. I do not make those decisions.

Senator KENNEDY. It is not requested. Now does the Interior Department have it?

Mr. DONKIN. That is a problem, Senator. Could I give you a definition here?

Senator KENNEDY. Yes.

Mr. DONKIN. This is how they determine that a well is capable of being produced in paying quantities. There are two ways—one is a production test. For gas wells, the requirement is a deliverability

test of at least 2 hours' duration following stabilization. Or a 4-point back-pressure test is required. And as far as witnessing of the results, let me read this:

All tests must be witnessed by an authorized representative of the Geological Survey; test data accompanied by operator's affidavit or third-party test data may be accepted in lieu of a witnessed test provided prior approval is obtained from the appropriate district office. Results of the witnessed or accepted test must justify a determination that the well is capable of producing in paying quantities.

Now I think it would be very difficult, in the absence of witnessing the test, to make a distinction between a well that is capable of producing in commercial quantities, which may have a few billion cubic feet of gas or 100 billion cubic feet of gas, or 50. Apparently USGS is content to accept this situation.

Senator KENNEDY. How do we verify? What is the process of auditing what the companies give to the Commission?

Mr. DONKIN. Well this is one of the methods by which they find that a well is capable of producing in commercial projects.

Senator KENNEDY. Is that adequate as far as determining what the public interest is?

Mr. DONKIN. I do not think it is adequate to determine what the ultimate recoverable reserves are from a given lease. I think it is grossly inadequate—

Senator KENNEDY. I did not mean to interrupt you. If you want to, continue and finish.

Mr. DONKIN. In order for the public to be adequately informed on these and other matters, it seems essential to pierce the shroud of corporate secrecy which pervades the petroleum business. To the substantial extent that the major oil companies bid for, own, and produce from these public lands jointly, they all share in the secrets. If Congress hopes to deal with the energy crisis on an informed basis, these and other facts will have to become available outside the corporate board rooms of the major petroleum companies.

Senator KENNEDY. Okay. Could I ask either one of you before getting into some of these more detailed questions, what is the difference between shut-in and available?

Mr. WILSON. Well, we are getting into what I consider to be an area in which there is the potential for some semantic juggling, Senator. The way that available reserves were defined for this particular survey was in terms of available proved reserves; and a proved reserve is somewhat like a retailer's shelf stock; it can be expanded or reduced at will and it may not be a good reflection of supplies in the back room. It is something that a well has been drilled into, and it is ready to flow.

I think, as Dr. Wald pointed out when he testified here 2 days ago, that there are also considerable reserves that are not in the proved category; and consequently, would not necessarily be considered as available under this definition. That is unfortunate.

What we really have to know is something about what our total resource base is. Gas by any other name is gas. And I do not think we have that kind of information at the present time.

Senator KENNEDY. As I mentioned earlier, we are going to, I hope, be able to go over this with the Chairman in some detail. It just seems that there is a tremendous kind of juggling of figures and hiding behind semantic differences, differences without distinctions.

I think that the people that are left out in the dark are the Congress, number one, and certainly the public.

Mr. WILSON. I think we all are, to a large extent.

Senator KENNEDY. Yes. I would think the people in the Power Commission are trying to make decisions on information that is incomplete, inaccurate, and limited.

They are not able to make the decisions which are truly in the public interest.

Let me go into some of the matters that we have been considering over the course of these past couple of days.

Mr. CHUMBRIS. Mr. Chairman.

Senator KENNEDY. Yes.

Mr. CHUMBRIS. Before you get into the new matter, may I ask him just one question?

Senator KENNEDY. Sure.

Mr. CHUMBRIS. Mr. Wilson, the colloquy that you just had with the Chairman regarding the inability of getting certain information, have you personally or has the Federal Power Commission brought this particular matter to the attention of either the House Interior Committee or the Senate Interior Committee, which really has jurisdiction over legislation to improve the processes in getting more oil and gas out of our domestic fields?

Senator KENNEDY. Before you answer that, I am obviously interested in whatever comment that you would like to make, but I would hope that we could get a response from the Chairman, who has the overall responsibility in this, too.

Mr. WILSON. Well, Chairman Nassikas is definitely the right man to answer Mr. Chumbris' question. I personally have not had that kind of communications with either the Senate or the House Interior Committees.

I know that the Office of Economics has, on various occasions, pointed out problems in the kind of reserve data we have been getting. And it has been urged that better data be obtained; but of course, the Office of Economics does not make those decisions for the Commission.

Mr. CHUMBRIS. You see, the difficulty we are having here is the fact that it was testified to yesterday and by other witnesses that this supply, loss of supply of gas is not something of yesterday or the day before. The evidence was beginning to show up in the middle sixties, in 1966, and 1967, 1968, 1969, and 1970, 1971, and 1972.

This subcommittee, the Antitrust Subcommittee, as well as the Interior Committee, was holding constant hearings to see what could be done about improving our natural gas position, because we were losing more gas, or actually the demand for gas was greater than the supply.

And also, in our import quota hearings we had economists come before us and were suggesting plans that would have wiped out all of the marginal oil wells in the United States; so that we could have the charts, so that the gas that we would be getting out would be only the big producing oil wells in the United States and getting the rest of the oil from the Middle East and Africa and so forth, where at that time it was only \$2 a barrel, which I understand today is about \$4.50 a barrel, to bring it into the United States. So—

Mr. WILSON. Well, I have two responses to that. It is my recollection that the phenomena of demand exceeding supply is something that occurred very late in the 1960's and early in the 1970's. One of the problems—

Mr. CHUMBRIS. But the ratio, we were seeing the ratio go from the high ratio of supply over demand and the slipping—

Mr. WILSON. Let me explain that. The ratio of reserves to demand was very high in periods in the 1950's, and there is an historical reason for that. The interstate pipeline network was not really completed until the 1950's. There was a lot of oil exploration and development and production in the 1930's and the 1940's, but gas had very little economic value. It was used extensively in carbon black operations in the producing fields, but there just was not any interstate pipeline network to which gas could be sold. Oftentimes it was just flared at the wellhead so that the oil could be obtained.

Now, when gas wells were discovered, and there was not any oil there to require that the gas be flared to get oil out, the wells were often capped. Consequently there was a tremendous wealth of reserves in the 1950's. There was no real exploration and development problem, and we had reserve ratios that indicated an excess of 20 to 30 years of supplies in some cases. This was, frankly, in an economic context, too much.

Now, one of the economic reasons, in addition to this historical fact, that the reserve ratio fell during the 1960's is that reserves are, in effect, an inventory, and in a period when interest rates are rising very rapidly, as they did in the 1960's and particularly the late 1960's, it is a wise economic decision to cut inventories back so as to cut carrying costs.

There are all kinds of historical and economic reasons why, regardless of whether or not there is truly a resource shortage one would rationally expect the proved reserve ratio to decline during this period of time.

Now, my point, my initial point, is that the supply and demand imbalance is something of very recent vintage.

Mr. CHUMBRIS. When you say recent, we are almost at the end of 1973. I know that in 1969 when we had the oil import quota hearings and we had all of the top economists, as well as State officials and Federal officials and so forth who testified, the charts that they were presenting were showing that the reserves on natural gas were reaching a dangerous low. Then we had hearings on nuclear power in 1970.

When are you going to start getting nuclear power so you can take the load off the natural gas?

Mr. WILSON. I agree with you, Mr. Chumbris. I have no disagreement on that. I think you have got the time period right.

Mr. CHUMBRIS. I just want to get this thing in the proper context. I think 1967 was the beginning of the danger year, if I remember that statistic. It could be 1968, the danger year when Senators on the Interior Committee had hearings, some jointly with us, in which they were concerned, how are we going to get more natural gas because people were shifting away from coal, away from oil because of the ecology question, and more demand was made on natural gas. And we were not getting our nuclear power earlier.

So I would like to put this in a time frame, because I know Mr. Nassikas is going to take up the burden when he gets here; but he did not get into that job that he has taken until about October of 1969, and much of this preceded his administration.

Senator KENNEDY. OK. Now that we have the background on this thing, we can start in on some of these matters that we have been particularly interested in in the course of these hearings.

Mr. Wilson, Mr. Allen, who is chief of the Bureau of Natural Gas, said yesterday that the work performed by OE was unprofessional and below quality. I believe he referred to the office's performance in the *Belco* proceeding and the analysis office's response to Senator Jackson's inquiry.

You were involved in both of these matters. Would you respond to Mr. Allen's criticisms?

Mr. WILSON. Well, Mr. Allen is engaged in special pleading. I think his remarks addressed to Dr. Wald and Dr. Schwartz were most unfortunate and ill-tempered. These are two people with great integrity, and in my opinion they have both tried to do an outstanding job of serving the public interest.

In contrast, I do not think Mr. Allen is qualified or competent to make the kind of accusations that he made yesterday. And I think that the content of his statement verifies the fact that he was engaged in special pleading, and thus challenges his credibility.

He was quite misleading and deceptive, particularly in his characterization of what Dr. Schwartz had said. He criticized Dr. Schwartz, I think challenged Dr. Schwartz' capabilities, on the basis that 2 days ago when Dr. Schwartz testified here in response to a question from you, he attempted to give an approximate off-the-cuff reaction to what the total cost of the price increase in the *Belco* case amounted to. He said it was in the area of millions of dollars. It, in fact, was in the area of tens of millions of dollars, and depending upon how you perceive the situation, perhaps it was even more.

For example, we have had witnesses from oil companies who have come into FPC hearings and testified that the price which was established in a previous case is the ground floor for everything forward from that date.

Well, if you include those gas supplies, not only the supplies that were directly applicable to the *Belco* case but subsequent supplies as well, then we are talking about not millions of dollars, we are talking about billions of dollars.

Mr. Allen's specific criticism was that Dr. Schwartz did not take into consideration the waiver of contingent escalations in making his off-the-cuff estimate to you. Well, the fact is that the Belco Co., which committed, as I recall, something in the neighborhood of 60 billion cubic feet of gas in the *Belco* proceeding, had virtually no contingent values to waive. They were not a major producer in the south Louisiana area.

So Mr. Allen's comments, while he raised a superficial technicality, were totally inappropriate, and did not apply to the situation with which Dr. Schwartz was dealing. It was very deceptive.

The Tenneco Oil Co. presented a witness in that case, and as I recall that witness' testimony indicated that their waiver of contingent escalations amounted to an annual value of something in the neighborhood of, well, several hundred thousand dollars, but obviously a trivial or *diminimus* amount in comparison with the price increase that they were deriving.

And Texaco refused to sponsor a witness to answer those questions. So I do not know what Mr. Allen was talking about. He was obviously trying to do a hatchet job on somebody, and he did not have his facts very well in order.

Second, with respect to his criticisms of Dr. Wald, you will recall that Dr. Wald was somewhat chagrined about the idea of a backward bending supply curve. As Dr. Wald indicated, that does not make sense under usual economic conditions. Obviously as prices rise, one would normally expect quantities supplied to rise in response to higher prices. You would expect a forward sloping supply curve, a positive relationship between price and supply.

But Mr. Allen came in here yesterday and said, well, "Wald is confused; he forgot to take into consideration the fact that we have a regulated industry here, and you would not really expect a forward sloping supply curve in a regulated industry."

Well, that is simply absurd. What in the world are all of Mr. Allen's advocacies about higher gas prices about? I assume that he has advocated higher regulated gas prices because he expects greater supplies. But, of course, his comments yesterday tend to contradict that. I think there is a great deal of confusion, unfortunate confusion, that he has raised.

Senator KENNEDY. Both Mr. Schwartz and Wald told us that the OE saw the concentration ratios from 405 produced in the *Belco* case, and I understand you were the FPC economist who testified in this case.

Would you go over why you wanted the data, and how you were going to use it in the *Belco* case?

Mr. WILSON. Well, the data which were supplied subsequent to that time, some of which we presented before the Antitrust and Monopoly Subcommittee in June and some of which we reported here, do indicate that there is a high degree of supply concentration facing the interstate pipelines.

The argument that we were trying to make in the *Belco* case was that if you are going to depend upon market tests to establish price—and the optional pricing procedure is one that focuses upon noncost market tests—it is very important to determine whether the market is competitive or not.

A market test in a monopolized market means that you are going to get a monopolistic price. In a competitive market, of course, it means you are going to get a competitive price; and that is good.

There was a great deal of evidence that the market to be considered in that particular proceeding was not competitive. The Commission was not persuaded on the basis of the record in that case that this argument was in fact true. The evidence that exists in these data definitely tended to corroborate the conclusion that the supply market was not adequately competitive.

Senator KENNEDY. How important was the data, considering the rationale of the Federal Power Commission's decision?

Mr. WILSON. Well, that is somewhat difficult to say. I am not really capable of looking into the Commission mind's eye and determining what additional piece of information would have persuaded them that there was a competitive problem that should be dealt with.

In my view, as an economist, I think the kind of evidence that suggests that the top four or the top eight firms control 50 or 75 percent or more of the supply market involved, coupled with the information that was presented showing that these top four and top eight firms are heavily interlocked with each other in joint ventures, joint producing agreements, and joint sales arrangements—well, it would have been enough to persuade me; that is clear.

I am not quite sure what would have been necessary to persuade the Commission however.

Senator KENNEDY. We have also heard during the course of these hearings about the OE's views or efforts running counter to those of the Commission and the rest of the staff.

Can you give some example of the cases and types of positions which OE is being criticized for taking?

Mr. WILSON. Well, I think my view of the problem on a fairly generalized level is that the Office of Economics is run quite differently from other bureaus and offices in the Federal Power Commission.

Haskell Wald, who is the Chief of the Office of Economics, is not a politician. He is a scholar, he is an intellectual; and the only kind of instructions that I ever get from him in my dealings with him is to do the best job possible and call the shots like they are. And as long as I do that sort of thing, he is pleased with my work. He does not give me any predisposed views that I am required to support.

Consequently, there is the possibility of situations where candid, objective analysis does not conform well with what may be the desired outcome from another perspective or a politically predisposed point of view. We just march to a somewhat different drum.

Senator KENNEDY. Are you suggesting that some of these are pre-judged?

Mr. WILSON. I am not indicating that there is pre-judgment. I am really comparing the Office of Economics with some of the other bureaus of the Federal Power Commission. A comparison of Haskell Wald with the former General Counsel or the present Chief of the Bureau of Natural Gas, would reveal widely divergent personalities, and different types of objectives.

Mr. Gooch, our former General Counsel, was a very politically motivated man. He resigned from the Federal Power Commission to join the Committee to Re-Elect the President. He had political ambitions. Dr. Wald has not got those kinds of ambitions. He is a Harvard Ph. D. economist who is interested in doing good economic analysis.

Consequently, the analysis that we may come up with may not be shared by some other people with other objectives.

Senator KENNEDY. Have there been special rules established respecting Office of Economics access to the Commission data?

Mr. WILSON. Well, I suppose this is a question that gets into definitions as to what policy is and what policy has been. We have heard a great deal about what policy was allegedly to have been and what policy was in fact with respect to destruction of documents.

Until quite recently, until June of this year, I was under the impression that as a member of the Federal Power Commission's staff I was obliged to obtain as much information as was available to the

members of the Federal Power Commission's staff in doing analysis and research work.

As of June of this year I received special instructions that henceforth information that was not generally available to the public would not be available to me or to my staff at the Federal Power Commission without a formal request to the Chairman and all the members of the Federal Power Commission. They now apparently have to make a ruling on each individual piece of information that I want and that is not a matter of public record.

Senator KENNEDY. Who established that procedure?

Mr. WILSON. That was a personal communication to me by the Chairman.

Senator KENNEDY. Did you question it at all in terms of how you would be able to function as an economist?

Mr. WILSON. Not to him. I questioned it to my immediate superiors.

Senator KENNEDY. Who were they?

Mr. WILSON. Dr. Wald, Chief of the Office of Economics.

Senator KENNEDY. What did he say?

Mr. WILSON. His feeling was that it was unfortunate, but he did not run the Federal Power Commission, and we would in fact comply with that procedure.

And he indicated to me that I should, whenever I found that there was information that I wanted access to—of course, if you do not see it to begin with, it is hard to find out that it exists—but if I did learn of something and I felt it was needed for an analysis that I or my staff was doing, that we should absolutely make the appropriate requests.

Senator KENNEDY. Have you made such requests?

Mr. WILSON. Not since June of this year, no, sir.

Senator KENNEDY. To your knowledge, is Office of Economics the only department within the Power Commission that has this kind of requirement?

Mr. WILSON. I am not aware of anyone else that received such a memorandum. I have talked, for example, with lawyers who told me that data that I was not able to obtain was in their desk drawers. They had access to it without any trouble at all. I am referring specifically here to information on intrastate gas sales.

We felt it was very important at one time to determine—and this was one such request that was made to obtain information—to obtain information on who the people were that were buying gas in the intrastate market and thereby causing the price spiral.

We had great difficulty getting that information. I found out from lawyers in the Office of the General Counsel that they had that information in their desk drawers; at least they told me that they did.

Senator KENNEDY. Does this kind of ruling help you or hinder you in trying to carry through responsibilities?

Mr. WILSON. Obviously, it makes it very difficult.

Senator KENNEDY. Do you understand why such an order went into effect?

Mr. WILSON. I was not privy to the decisionmaking process on that, no.

Senator KENNEDY. Do you think it was because there had been a lot of leaks that had been attributed to Office of Economics?

Mr. WILSON. Well, you know, I heard people talk about leaks yesterday, and I went back through as much information as I can recall since I have been at the Federal Power Commission. I have been there a little over 2 years.

Now, there was an apparent leak of documents about 3 years ago before I joined the Federal Power Commission, and there were a series of articles by Jack Anderson. The stories that I heard at the time when I came to FPC, the speculation was that the General Counsel's office had put that material out, for political reasons, but I do not think it was ever established that that was in fact the case. We really do not know.

I do not know what the source of those leaks were. But in the 2½ years or so that I have been at the Federal Power Commission, I am not aware of a single newspaper story, Senator, or anything else that indicates that there was a leak of any confidential documents by any members of the Federal Power Commission staff.

I have heard Webster Maxson tell me personally on various occasions that he is very upset about Dr. Wald and Dr. Schwartz leaking material to the press. But I have never seen a press story that indicates anything was leaked. There are newsmen in this room, and I suppose they would have better ideas as to what kinds of secret FPC documents they have obtained. I have not seen any of their stories, if there have been any however, which were written from leaked documents.

There is kind of a rumor mill that goes on around there. I have had new employees tell me that they have been cornered by the FPC's executive director, and he has warned them about working too closely with the people in the Office of Economics because they leak things, but I think that is his fabrication.

Senator KENNEDY. Mr. Nassikas himself testified before the committee in June that public leak of the confidential R-405 data could cause substantial competitive injury to the companies supplying reserve data.

As an economist knowledgeable in the industry, what is your evaluation of the competitive value or danger in the public release of such data?

Mr. WILSON. Well, I think the overwhelming thing that sticks out in my mind is that, first of all, these companies are involved in joint bidding combines with each other. Four or five companies get together, and they acquire these leases jointly. They oftentimes produce the leases jointly.

And three or four companies would be together over here, and two of those and a couple of others over there on another lease, and three or four over here with a couple from each of that group and so on. In short, I think the companies have a pretty good idea about what each other's leaseholdings are; they own these leases jointly, and anybody that wanted to spend the time or effort to find out, either through their direct involvement or through their partners' involvement in the various leaseholdings, could do so.

I think people outside of the industry are the ones that do not have that information. I think the industry has it.

Senator KENNEDY. Your impression, then, is that the industry has it, so—

Mr. WILSON. The only way it could be harmful is if it were truly a valuable trade secret that one of your rivals is getting. But they are partners. They are not really rivals, and there is little reason to believe that they do not already have the data.

Senator KENNEDY. Well, what about the argument made by the industry and the administration, that the natural gas industry which consists of several thousand independent companies, is quite competitive, and therefore should be deregulated?

What conclusions do you draw from your analysis?

Mr. WILSON. Well, it is a fact that there are several thousand separate corporate or proprietary entities. That, I think, however totally distorts what the competitive picture of the industry actually is. You get into what I call the General Motors mentality. People have said to me, well, look at the automobile industry. That is much more concentrated than the natural gas producing industry.

There are two problems with that type of thinking. First of all, while the natural gas industry has many more firms, these firms are much more intertwined. Literally every major in the top 10 has hundreds of joint ventures with every other major. And the smaller firms are, of course, heavily dependent on the majors. They have to get farmouts from the majors in order to get into the offshore areas. They do not have the financial wherewithal to bid and acquire these leases themselves. They have to depend upon majors: refining capacity and pipelines. There is just not any meaningful kind of independence that exists there. Moreover, in automobiles, we have a foreign market, and that has been a very competitive element in the automobile industry in recent years. In petroleum, the supply from the foreign market is controlled by the same majors that are in control of domestic operations.

Senator KENNEDY. Would you explain what you mean on page 8, that "two major companies submitted highly questionable statements showing their respective available reserve differed by well over 2,000 percent?"

Mr. WILSON. Well, in essence, what I am saying there is that there are two firms that are producing partners on their offshore acreage. They own the leases jointly, and they sell the reserves jointly. You would therefore expect them to come in with reports about available reserves that were similar, maybe not identical, but very highly similar. But the situation which I have indicated here is that these two firms, that are producing partners, have reported reserves in this particular survey that differ by 2,000 percent. Now, there is something going on there, whether it is a semantic situation or not, I do not know. Conceivably, it could be.

One of the things that I think this particular survey stipulated was that a firm was not required to report as available reserves those reserves which it had intentions of using in its own oil refineries. And in that situation, it is conceivable that one of these firms said, "Well, if we do not get the price that we want, our intention is to utilize all of our reserves in our oil refineries, and therefore we do not have to report them. Maybe when we get the offer we want, we will change our mind about what we are going to use in the oil refineries, and at that point they become available." That is the kind of semantic juggling that can develop, I think, within the groundrules that were established for this survey.

Senator KENNEDY. You also point out that 13 producers reporting zero reserves, controlled tens of thousands of acres of Federal leaseholdings at the cost of tens of millions of dollars. Based on your answer to the 2,000-percent question and the zero reserve reported, is it your judgment that the R-405 reports filed with the Power Commission include false or misleading statements?

Mr. WILSON. I would conclude that the data are at least misleading. I would not make the charge that they are necessarily false, because there is a certain amount of ambiguity as to what exactly they had to report.

But to take these figures as a measure of available resources, or resources that could be produced and which are recoverable, would be totally erroneous.

Senator KENNEDY. Is there a way of determining the available resources?

Mr. WILSON. I think there is, yes. I do not think that I could determine it now on the basis of these data however.

Senator KENNEDY. Could you develop an inquiry in which that information could be determined?

Mr. WILSON. Most definitely. Yes, I can give you an example of one inquiry that looked to me—

Senator KENNEDY. But your point is, you don't have it with the 405. You cannot be sure you have the accurate information.

Mr. WILSON. I am pretty sure we do not.

Senator KENNEDY. You are pretty sure you do not, but you believe that, with the right kind of inquiry, you could obtain that type of information?

Mr. WILSON. Yes, sir.

Senator KENNEDY. Do you believe that you could develop the kind of auditing or verification procedure that could assure you that the material going to the Commission was really accurate?

Mr. WILSON. We have to overcome some of the hiding behind the proprietary shield that is going on, but yes, it could be done.

Senator KENNEDY. Is it technically and administratively possible to do so?

Mr. WILSON. Yes, sir.

Senator KENNEDY. If this information, in your words, may not be willfully misleading or inaccurate, but certainly is incomplete, how valid are the conclusions to be drawn from this concerning the reports of the gas shortage? Could you tell, on the basis of those reports, about how serious the gas shortage is?

Mr. WILSON. It is the only information that we have got. On the one hand, I have always believed in using what you have got if something better is not available. But I do not think that any definitive answer could be obtained on the basis of these data, no, sir.

Senator KENNEDY. If you were to draw up, based upon that information, a report on the gas shortage, how much weight would you give to it?

Mr. WILSON. Well, my own analysis of market structure does not rest very heavily on this kind of data. It is data that could be used to measure concentration ratios, and I think the problem in the petroleum industry is not concentration, but interties, joint ventures, and vertical relationships. It would certainly be desirable to have better information of this type. I would not reach any firm conclusions based on this information alone however.

Senator KENNEDY. Why would companies want to underestimate their reserves by 2,000 percent? Is it in their financial interest to do so?

What economic considerations would go into a company's decision as to whether they were going to give you the full information, accurate information, or perhaps, incomplete information?

Mr. WILSON. There are two things that I can think of. One is that ultimately, some sort of reserve measures are necessary in order to make calculations about what producing costs are. And to the extent that the Federal Power Commission regulates producer prices on the basis of costs, the lower the reserves reported, that is, the lower the finds associated with any drilling programs, the higher the cost per unit produced. And if higher costs translate into higher prices, that might be one heck of a motivation.

Another one, of course, is that we have a crisis mentality existing in certain areas of our country, despite the fact that USGS has indicated that we have six to seven times as much gas and oil recoverable under present economic and technological conditions as we have consumed up to this point in history. There is a great deal of mistaken belief that we are physically running out of resources.

To the extent that this mentality can become inflamed, higher prices look so much better to the consumer. I think there is a propaganda element to it.

Senator KENNEDY. I suppose the situation is complicated. The documents are destroyed or returned at the end of the survey, it is very difficult to check for proof of either misleading or incomplete, or perhaps even false statements, is it not?

Mr. WILSON. If the documents are not available, no check of the type I made is possible.

Senator KENNEDY. Would you be willing to make any observations about whether you think any of the statements that were made might have been false?

Mr. WILSON. I can pinpoint situations in which the statements that were made were inaccurate, apparently inaccurate, if what we are interested in doing is defining what our resource base is, yes. I do not want to get into trying to make the distinction between false and misleading.

Senator KENNEDY. Well, I am not interested in your making accusations, just in your drawing conclusions based upon your experience and knowledge.

Mr. WILSON. I guess I have done that in my prepared testimony, to an extent, without identifying the companies.

Senator KENNEDY. Would you have any reservations about preparing a confidential paper addressed to the chairman of the Antitrust Committee and to the chairman of the Administrative Practice Committee identifying the companies whose identity you have been unwilling to state publicly, but that you believe have stated misinformation?

Mr. WILSON. If requested to do so, I would make those identifications to yourself and Senator Hart, yes, sir. The documents are in Senator Hart's possession.

Senator KENNEDY. I make that request. Senator Hart would like that information, also.

Mr. DONKIN. Senator, I think I could tell you what percentage is owned by the top four and the top eight. I could make a calculation on the top 10 and submit it to the subcommittees.

Mr. KENNEDY. OK, would you tell us and then submit it?

Mr. DONKIN. Well, the top four have net working interests of 35.4 percent; for the top eight it is 52.8 percent. However, as a proxy for any type of concentration of ownership of producing shut-in leases, this is not sufficient. I should point out that what is important is control over these leases, and when you have joint ownership of several leases by Continental, Getty Oil, and Cities Service, for example, who often tend to own leases jointly, how do you make a distinction? Texaco and Tenneco own a number of leases jointly and there too it is misleading to say there is more than one independent seller.

We are looking for some proxy here for concentration of ownership and in that respect these percentages are not particularly meaningful.

Mr. KENNEDY. So four companies shut-in 35 percent of the gas?

Mr. DONKIN. That is right.

Mr. KENNEDY. Can you evaluate that for us? Is that high or low?

Mr. DONKIN. Well, that is difficult to determine. What we are talking about here, Senator, is that the top four own 35.4 percent of the net working interest in these producing shut-in leases, but that does not reflect joint venture interests. If I had accurate reserve figures, ultimate recovery figures, that would be far more meaningful. For example, I do not know what the ultimate recoverable reserves under the Chevron leases in south Louisiana are, as opposed to the other companies.

Mr. KENNEDY. Why not? Is that material not available?

Mr. DONKIN. I should think that it should be, but it is not in any meaningful form, Senator. Going back to your earlier question, you have to keep in mind that a producing shut-in lease may have but one well located on the lease. As I pointed out, they may have made a production test, which was submitted to USGS by affidavit.

In terms of ultimate recoverable reserves, that develop in the future, they may increase tenfold with respect to that single well, or twenty-fold. That is the type of information that one should consider, I believe, in terms of—as Dr. Wilson pointed out—the resource base. We focus too much on proved reserves, and proved reserves are a rather restrictive definition, in terms of assessing an energy crisis.

Mr. KENNEDY. Do you think it is useful, in trying to develop information on the reserves which are available, for shut-ins to be included in any type of evaluation?

Mr. DONKIN. Again, I agree they should be included. What significance, what amount of significance should we attach to them? As I pointed out, maybe one well—what if the lease was drilled up? We are talking about a number of leases here that have been held in this producing shut-in category for 8 or 10 years. What if the companies went out and they drilled these leases up, started producing from them? It is a difficult question to answer, Senator.

Mr. KENNEDY. You would have gas, would you not?

Mr. DONKIN. You would have more gas, certainly.

Senator KENNEDY. Mr. Chumbris?

Mr. CHUMBRIS. Thank you, Mr. Chairman.

I have before me, Mr. Chairman, getting back to the colloquy that I had with Mr. Wilson, a hearing before the Interior Committee, Natural Gas Supply Study, and this one was dated November 13, 1969. This is the opening statement by Senator Moss, who was the chairman of that subcommittee:

This is a public hearing conducted by the Subcommittee on Minerals and Materials and Fuels of the Senate Interior Committee on the situation with respect to the supply of natural gas. It is being held as a result of an increasing number of warnings and statements by the officials of the Interior Department and the Federal Power Commission, that our country is facing a serious shortage of natural gas supplies. These warnings have had the backing of gas producers.

A shortage of natural gas on anything like as large a scale as has been predicted would have very serious, very far-reaching effects on our national economy, and on the health and comfort of many millions of our citizens. The natural gas now provides the fuel for nearly one-third of our Nation's energy output.

Now, that is November of 1969. The same thing was done in several previous hearings, and that is why I was referring, Dr. Wilson, not to be critical, but this matter has been studied by the Interior Committee, and it goes far, it goes back, I believe, into 1968 and 1967. I just happen to have this document of the Interior Committee in front of me, and I also have our five volumes here of our oil import quota hearings, which began on March 11 of 1969, which was 6 months before that. I have our nuclear power hearings in June of 1968 before the Joint Atomic Energy Committee, which went into this issue, because they were concerned that we were not having enough fuel, so they needed more nuclear power. And since that time, we know that there are about 40 nuclear powerplants that are either half built or on the drawing board that have been stopped because of lawsuits because of ecology. And that is why I brought out this point, so that we get it in the proper time frame. When we used to talk about present, I guess, 10 years could be the present. But I think, in a situation like this, we ought to pinpoint it, the month and the year, so that when Mr. Nassikas and his Commissioners come before us, and we ask him questions, he can say, well, anyway, I started the first study in 1970. There were not any studies, as witnesses have testified yesterday, prior to that to get the information that we have gotten. Maybe it is not the best information in the world, but at least it was something that nobody had done previously.

Mr. WILSON. Mr. Chumbris, I hope that nothing I have said this morning indicates any disagreement at all with Senator Moss' perceptive comments in 1969. I agree that there were warnings in 1969. I agree that there is a shortage today.

Now, the question is why; not whether the shortage is real or not. The consumers know that there is a shortage. Is it because we have a depleted physical resource base that we have run out of, or is it because we have institutional failures in both government and the private sector of the American economy which have created the shortage? I think it is the latter. I really do not think that it is the physical resource aspect of it that is critical, based on the evidence that I have seen. I agree with what Senator Moss said in 1969, and I apologize if I have created some confusion in your mind.

Mr. CHUMBRIS. No; it is not creating confusion. Actually, it is good that the confusion came up, because some people seem to read the paper and think that maybe natural gas and oil shortage and all these other shortages just happened overnight. And I just wanted to get before this hearing, since this question has not been raised prior to this time, that this is something that has been worrying the Government officials as far back as 1967, and that is all I wanted you to say. Because when you said, it is a present problem, a present problem means 1973 to me. As far as I am concerned on this issue, 1967 is not in the present.

Mr. WILSON. I hope you understand me. I think it is important to define the problem. According to figures that have been provided to the Federal Power Commission by the Department of Interior, we have been told that from the beginning of history until 1970, this country has consumed approximately one-sixth to one-seventh of its natural gas and oil reserves that are recoverable under present technological and economic conditions. And if you throw into that reserve estimates that go beyond that restricted definition to include reserves that are marginal or para-marginal under present technological and economic conditions, we have consumed, according to these Interior Department figures, approximately 5 percent of our resource base.

So that is not consistent with the thesis that we are running out of our energy supplies in a physical sense. It is kind of like the missile crisis in the 1950's. We have enough energy in this country to destroy ourselves several times over. The job is to create the kinds of institutions in the private sector of the economy and in the Government that are going to get that job done. It is a do-able job.

Mr. CHUMBRIS. I think that the question was not so much that we are going to completely run out of natural gas and oil. The thing is that the demand, especially in the last 3 or 4 years, has outraced the supply, the possible supply that we can get.

Mr. WILSON. Not the physical supply, but the supply that has been made available, Mr. Chumbris, and that is an important distinction to make.

Mr. CHUMBRIS. Mr. Chairman, since we have been raising the question of the Federal Power Commission study and the Federal Trade Commission study, Mr. Simons of the Treasury Department has submitted a staff study which, I believe, since we have the FTC study and also the Federal Power Commission study, that this be made a part of the record in these hearings.

Senator KENNEDY. As I understand, the FTC has refused to consider that as an ex parte communication. I think maybe we ought to consider that too. I would like to talk with the Chairman about it. I do not see any problem in making it a part of the file.

Mr. CHUMBRIS. Yes, because this question was raised in the colloquy that I had with Mr. Halverson and Senator Hart when Mr. Halverson was here in June, and Mr. Halverson was contesting what the Federal Power Commission study showed. And the chairman and I got into a colloquy as to, well, are we getting the information. And my point was, it is not that we are getting information. Are we getting the right kind of information? Now, we have a direct report, study by study by the Treasury Department that made a specific study of

that same Halverson study that was presented to this same subcommittee, and all I am asking is that this now be made a part of the record, which completes the colloquy that we had in June of this year.

Now, whether we do it now or do it at some other time is immaterial. But I think it is something that should be in the record. We have put matters such as this in the record many times.

Senator KENNEDY. Obviously, we want the record to be complete and comprehensive in every respect. Then we will get a chance to examine it. We will make it a part of the file and include relevant parts in the record.

Mr. CHUMBRIS. Well, that is fine, Mr. Chairman. Thank you very much.

I have no further questions of Mr. Wilson. As I told him when he appeared here in June, that the record will speak for itself. You make statements, other witnesses make statements that contradicted your statements, and it is up to the subcommittee to evaluate those statements.

Senator KENNEDY. The record always speaks for itself.

Thank you very much, Mr. Wilson, Mr. Donkin. Your statements have been very helpful to us.

Mr. WILSON. Thank you, sir. It is our pleasure.

[The material referred to follows. Testimony resumes on p. 1107.]

JULY 30, 1973.

Hon. LEWIS A. ENGMAN, *Chairman,*
Federal Trade Commission,
Washington D.C.

DEAR MR. CHAIRMAN: I have read with concern the statements by James Halverson, Director of the Bureau of Competition, before the Senate Judiciary Committee and the Senate Committee on Commerce, in which he discusses the structure of the petroleum industry. I understand that in the subsequent questioning, Mr. Halverson suggested the breakup of integrated oil companies by divestiture of refining or producing operations from marketing. This proposal gives me a great deal of concern because of its implications for domestic energy supply in the next few years.

In the first place, I find it difficult to accept the concept that the petroleum industry is not competitive. While Mr. Halverson singles out eight major oil companies, there are, as you know, at least fifteen to twenty other very large oil companies with integrated operations in addition to the hundreds of independents who do not have integrated operations or are partially integrated.

The so-called "independent" operations sprang up in the last twenty years principally because of surplus crude and refining capacity. The independents bought marginal stocks at relatively low prices. They were able to charge low prices because of this and also because they did not have to incur the substantial capital investment needed by the major oil companies.

This surplus capacity is now gone and with it the primary source of independent's position in the industry. Far from being a result of deliberate anti-competitive actions by the integrated oil companies, it seems to me to be the result of the inability of domestic supply to keep up with demand. This in turn has been a result of many factors, especially past public policies that have discouraged new refinery construction and exploration and drilling.

Since the President's Energy Message on April 18, a number of companies, independents and majors, have announced plans to build new refineries or expand existing refineries for a total new capacity of nearly 2.5 million barrels per day. Some of these companies are now having second thoughts. Besides causing critically needed refinery expansion plans to be delayed or cancelled, the possible divestiture of refineries from integrated oil companies is making it difficult for several independent marketers who have announced plans to build refineries to carry through their plans. Statements by FTC Staff are, ironically, contributing to the difficulties of the independent segment of the industry.

We are, as I am sure you are aware, in the midst of a national energy crisis. We simply do not have sufficient refining capacity to produce the gasoline and heating oil that we are going to need in the next decade. We will have to build the equivalent of 60 new refineries in the next 12 years at a cost of about \$250 million each, for a total of \$15 billion. Thus far, refinery construction has been stalled, in part, because of inadequate financial incentives and active opposition of environmentalists to new refinery sitings. We must also accelerate drilling for oil, primarily on the Outer Continental Shelf. Drilling on most parts of the OCS is expensive and outside the financial capabilities of the nonintegrated independent oil companies.

As Chairman of the Oil Policy Committee, I would like to meet with you to discuss this matter further and also provide you with our complete comments on the FTC staff recommendations before final Commission action.

Sincerely yours,

WILLIAM E. SIMON.

FEDERAL TRADE COMMISSION,
Washington, D.C., August 10, 1973.

Hon. WILLIAM E. SIMON,
Deputy Secretary of the Treasury
Department of the Treasury, Washington, D.C.

DEAR MR. SIMON: This will acknowledge your letter of July 30, 1973, to Chairman Engman concerning the statements made by James Halverson, Director, Bureau of Competition, before the Senate Judiciary Committee and Senate Commerce Committee regarding the petroleum industry.

The Commission, on July 17, 1973, issued a formal antitrust complaint against eight major petroleum companies. Now that this matter has progressed from the investigative to the adjudicatory phase, any discussion by any Commissioner of the complaint or its underlying legal or factual bases could give rise to charges of impropriety or unfairness or the appearance thereof. The issues which you raise regarding competition in the petroleum industry and the appropriateness of certain relief are questions basic to the action presently being prosecuted by Commission staff.

Therefore, since it would not be appropriate for the Chairman in his judicial capacity to discuss the specific issues which you have raised. I have forwarded your letter to Mr. Halverson for further response. I have also forwarded a copy of your letter to the Secretary to be placed upon the public record and to be forwarded to the parties in the proceeding pursuant to our Rules of Practice and Procedure (16 C.F.R. § 4.7) and Commission policy concerning communications received by Commissioners while matters are in litigation.

If you have any further questions concerning this matter, please contact our General Counsel, Calvin J. Collier.

Sincerely,

ROBERT J. LENIS,
Assistant to the Chairman.

FEDERAL TRADE COMMISSION,
Washington, D.C., September 7, 1973.

Hon. WILLIAM E. SIMON,
Deputy Secretary of the Treasury, Department of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: On September 4, 1973, your office sent me a copy of Douglas L. McCullough's analysis which opposes the FTC's suit charging eight major oil companies with monopolizing petroleum refining to the detriment of the consuming public. Your office's analysis was apparently made a matter of public record on September 5, 1973. Accordingly, I am also placing this response on the public record here at the Commission.

The sixty-three page analysis demonstrated a misunderstanding of both the Commission's complaint and the staff report. Neither were intended to provide solutions to the immediate shortage problem. Again, contrary to your office's analysis, neither the complaint nor the report accused the eight major oil companies of overtly contriving the petroleum shortage; rather, they accused them of manipulating the existence of a shortage to the competitive disadvantage of independent refiners and marketers.

The report and complaint were intended to deal with the basic anticompetitive conditions which have been recognized to exist in the oil industry. For years experts inside and outside of the government have criticized in detail the competitive framework in which the oil industry operates. For example, the Cabinet Task Force's Report on the Oil Import Question commented:

We have been told repeatedly that the crude oil market is greatly distorted by each integrated firm's willingness to pay a higher-than-necessary price for independent producers' crude in order to claim a large depletion allowance on the value of its own crude. This is but one example of the frequent suggestions that various elements of the oil industry structure are anticompetitive.

More recently, the Chief of the Federal Power Commission's Division of Economic Studies, Dr. John Wilson, detailed the anticompetitive structure of the oil industry in the following terms:

. . . [M]arket control in the petroleum industry, including the natural gas producing sector, is held by a closely knit consortium comprised of the large, fully integrated oil companies and their jointly interlocked affiliates. These firms, working in cooperation with each other, have the ability to control petroleum supplies and, in so doing, to maneuver for monopolistic market price levels.

The difficulty with Mr. McCullough's analysis is its lack of complete and relevant data. For years even the government has had to rely on data voluntarily assembled by the industry itself. The issuance of the complaint by the Commission will subject to public examination for the first time data which goes beyond summaries compiled by the industry and will subject the operations of the industry to the rigorous examination of an adversary proceeding. We will all be able to substitute fact and careful analysis for myths and superficial rhetoric. As the Oil Import Task Force said, "These allegations [that the various elements of the oil industry are anticompetitive] should either be supported or put to rest. . . ."

Because of considerations of legal ethics, it would be inappropriate for me to discuss the facts of our case in any detail. The issues raised by the Commission's complaint should be resolved in a fair, public hearing in the forum contemplated by the Federal Trade Commission Act. Accordingly, should you wish to file further briefs on the matter, it would be more appropriate to request permission from the Administrative Law Judge assigned to hear the charges.

Finally, this office would like to invite Mr. McCullough to disclose the petroleum companies who provided him with information. This would, of course, enable us to check his sources through the use of compulsory process and would facilitate resolution of some of the issues.

Very truly yours,

JAMES T. HALVERSON,
Director, Bureau of Competition.

COMMENTS ON SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE DRAFT
STAFF REPORT "POLICY ISSUES AND OPTIONS AFFECTING NATURAL GAS"

BUREAU OF NATURAL GAS

The staff of the Senate Interior and Insular Affairs Committee is to be complimented on the way they have addressed the many complex facets of the national gas problem. They have, on the whole, provided the decision maker with a balanced presentation of the major considerations relevant to the problem, leaving him free to arrive at a position based on his individual interpretation and judgment with respect to these facts.

A number of suggested numerical and language revisions are indicated on the attached draft report. Most of these are the result of the present availability of more recent data. Suggested revisions to the language are meant to add only to the clarity and accuracy of the paper, a conscious effort having been made to refrain from editorial suggestions.

GENERAL COMMENT

Perhaps the most important observation which should be made about this report is with respect to our concern that readers may get the impression that deregulation, in whatever form or to whatever degree, will "solve" the present gas supply-demand imbalance. Our concern extends also to the possibility that, insofar as deregulation is regarded as "the solution", important decisions with

respect to supplemental gas supplies may be postponed or avoided in the mistaken expectation that supply adequacy will be attained through the development of conventional domestic resources.

A simple consideration of the facts concerning the response necessary to close the presently anticipated supply gap should be kept in mind. If we assume that an adequate reserves to production ratio of about 10 is maintained; that a reasonably optimistic development of supplemental gas sources is attained with respect to overland imports, LNG imports, gas from coal, and gas from Alaska; that the industry is capable of immediately mounting an all-out exploration and development program unimpeded by financial, equipment or manpower considerations; then an annual finding rate of approximately 37 trillion cubic feet per year would be necessary to bring supply and demand into balance. While this rate of resource development does not include an allowance for the unknown impact of higher gas prices on demand, it is none the less sobering to realize that this level of development represents a sustained level of annual additions to reserves equal to that attained in 1970 when 26 trillion cubic feet of Alaskan gas were added to the reserve inventory, or an amount equal to 1½ times the all time record annual Lower 48 reserve additions of 24.7 trillion cubic feet reached in 1956. Attainment of this level of resource development would require the cumulative discovery and development of about 663 trillion cubic feet of natural gas to 1990, representing the development of approximately 58 percent of the Nation's total potential gas supply as estimated by the Potential Gas Committee. This rate of development would be required *in conjunction with* the timely development of supplemental gas supplies and would be substantially higher in the absence of such supplemental supply availability.

Care must also be taken to avoid attributing very large decreases in the demand for gas to deregulated (and therefore higher) gas price levels. This is particularly true to the extent that a net energy reduction would not follow deregulation and gas users would attempt to switch to alternative clean fuels which may also be in short supply and perhaps unavailable. To the extent that a continued increase in the price of other fuels and gas deregulation do not substantially alter interfuel price relationships, many users may also tend to stay with gas due to the possibly unfavorable economics of equipment conversion to alternate fuels.

Econometric modeling has and can provide useful simulations of many of these complex reactions. While this tool will undoubtedly become increasingly useful as more sophisticated models are developed, it must be remembered that these models do not describe historical performance perfectly and can be statistically expected to describe the future even less perfectly. The question in its essence is not *will* supply and demand respond to price but *how and to what extent* will supply and demand respond to increased price. When this question is answered with any degree of confidence we will have gone far toward the solution of our energy problems.

SPECIFIC COMMENTS ON REPORT

A. On page 2 of the Summary and Conclusions, the last sentence in Paragraph B states "These FPC projections are based on more moderate growth rates than were experienced in previous years and on the doubtful assumption that nuclear power will supply 23 percent of the Nation's energy requirements by 1990." In arriving at the projected levels of unsatisfied demand for gas referred to here, the Commission's Bureau of Natural Gas somewhat modified the demand projections of the Future Requirements Committee. The Future Requirements Committee did not include in its projection any explicit assumptions regarding the rate of development of nuclear power nor did the Staff's projected levels of unsatisfied demand include such a consideration.

B. On page 2 of the Summary and Conclusions under paragraph 2A, an enumeration of some of the effects of the gas shortage is made. Under the comments relating to the city of Boston, reference is made to the FPC authorization to import LNG at rates of \$1.13 and \$1.58 per thousand cubic feet as opposed to the delivered price of conventional natural gas supplies to Boston at 69¢ per Mcf. It is important to note here that the LNG imports referred to are for peak shaving purposes during the fall and winter seasons and are therefore not directly comparable to the delivery price for base load natural gas.

In that same section, under the remarks on the city of Cleveland on page 3, reference is made to the severe disruption of business during a severe cold spell in January of 1970. Reference to this disruption in Cleveland is also made on page 19 in the body of the report. It is our understanding that this disruption was

not the result of a shortage of gas or the curtailment of gas supply to the distributor serving that area but rather resulted from a very severe cold spell which exceeded the design capacity of the distributor to serve all customers.

C. On page 9 of the Summary under section C entitled Price Elasticity of Supply, the statement is made in the first paragraph that "Recent studies suggest that a dramatic price increase of field prices (to around 50 cents per Mcf) followed by regular increases of one or two cents would work most effectively to eliminate the gas shortage in the shortest possible time at the least cost to consumers and to the Nation." (Emphasis added.) This is an example of our concern expressed above under the general commentary concerning the possible acceptance of price deregulation as "the answer" to the gas supply situation. This same comment applies to the first sentence of the second paragraph on page 11 of the Summary where the statement is made "Yet no set of policies will immediately liquidate the natural gas shortage." (Emphasis added.)

D. In the last sentence of the first paragraph on page 11 of the Summary, the statement is made that regulation ". . . has focused shortages on largely residential interstate consumers to the benefit of largely industrial intrastate consumers." It should be pointed out that shortages (i.e. curtailments) of gas have not been experienced by interstate residential consumers. It would appear that the point intended to be made here is the same as that made elsewhere in the paper; that is that the current regulatory scheme has resulted in a disproportionate benefit to industrial consumers as opposed to residential consumers. If that is the intent, this point should be more clearly made in this paragraph.

E. In the second full paragraph on page 2 of the body of the paper, the statement is made that the FPC has no legal jurisdiction over any aspects of the operations of an intrastate pipeline. Under Section 3 of the Natural Gas Act, all U.S. imports and exports of natural gas require an order of the FPC authorizing such activity irrespective of the interstate or intrastate character of the importer or exporter.

F. On page 5, the environmental advantages of natural gas are listed. Included in this list is the contention that natural gas does not cause thermal pollution or land consumption and siting problems similar to those occasioned by electric power transmission lines and power plants. Actually thermal pollution may occur irrespective of the fuel used whether it be gas or another fuel. Considerable land consumption may also take place and siting problems can occur with regard to the drilling rigs and the other plants and structures required in the production of natural gas. Land use considerations are also involved in the transmission of gas in connection with the requirements for pipeline rights-of-way.

G. On page 9, under the discussion relating to the Future Requirements Committee, reference is made to the adjustment of data by government agencies. The data and projections generated by this committee are not adjusted by governmental agencies. Observer representatives of various agencies do take an active advisory and liaison role in the collection, analysis and presentation of this information, however.

H. At the top of page 12, the statement is made that the word "requirement" is used only when there is no economically acceptable substitute for a particular energy form. Common usage of the term "requirement", as related to natural gas, does not infer such a restriction. With respect to natural gas, the word "requirement" is normally fully synonymous with demand.

I. On page 23 reference is made to the major pipeline companies in curtailment as of February 1971. The situation with respect to natural gas pipeline curtailments is a matter of continuing surveillance by the Bureau of Natural Gas. In this connection, periodic updates and reports on the curtailment situation are made. The most recent information regarding pipeline curtailments can be obtained from News Release No. 19441 dated July 16, 1973, a copy of which is attached.

J. In the first paragraph on page 25, the Bureau of Natural Gas projections of gas supply are erroneously described as having been made under the assumption of a continuation of existing policy. The projections referenced here anticipated a turn around in the trend of annual additions to reserves beginning in 1971 and ultimately rising to the average annual level of 17 trillion cubic feet attained over the preceding ten years. Implicit to this projection was the necessity for the implementation of a natural gas policy which would be necessary to effect this turn around.

K. On page 28 in the second paragraph under the discussion on differential pricing for old and new gas, the point is made that differential pricing might lead to or result in some gas being left in the ground that otherwise might be produced at higher prices. It should be noted that the Commission has taken specific actions

to avoid such a situation wherever possible. In Order No. 481 the Commission provided that it would be the general policy to consider applications by producers for special relief where reduced pressures, the need for reconditioning wells, deeper drilling, or other factors might make further production uneconomic at existing rates. In Order No. 482 the Commission additionally provided special pricing relief to producers to encourage the recovery and sale in interstate commerce of gas which is or would otherwise be flared or vented.

L. At the bottom of page 38, the statement is made that gas reserves can be produced at rates of 8 to 14 percent per year without significantly diminishing ultimate recovery. The maximum permissible rate of production will vary widely from reservoir to reservoir but it is misleading to generalize in this fashion. Implicit to the rates of production suggested here would be the depletion of reserves through production in a period extending from about 7 to 13 years. The great majority of gas fields cannot be efficiently produced according to this schedule.

M. At the bottom of page 47 reference is made to the decline in operating drilling rigs between 1957 and 1971. These figures appear to refer to total rigs running in the United States during that period and are therefore not particularly relevant to the preceding discussion pertaining to offshore activity.

N. In the third paragraph on page 52 reference is made to the Commission's statement that it would fix a national rate ceiling for new gas sales in Docket No. R-389-B before July 1, 1973. The determination of national rates under this rulemaking has been delayed by the imposition of price control since that statement was made.

O. On page 54 reference is made to the order of priorities established by the Commission in Docket No. R-469. The priorities as listed on page 54 have been slightly modified by Order No. 467-B a copy of which is attached.

FEDERAL POWER COMMISSION,
Washington, D.C., November 15, 1973.

Hon. PHILIP A. HART,
*Chairman, Subcommittee on Antitrust, and Monopoly, Committee on the Judiciary,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: By letter of October 31 you suggested that I might wish to comment on the critical remarks concerning me that were made by Mr. Frank C. Allen, Acting Chief, Bureau of Natural Gas, at the Subcommittee's recent hearings on the circumstances surrounding the attempted destruction of documents at the Federal Power Commission. The remarks appear at transcript pages 141-148 for Wednesday, October 17. In addition, at transcript page 144, Mr. Allen directs the Subcommittee's attention to his letter of September 28, 1973, addressed to Senator Jackson, expressing disagreement with some responses by members of this Office to a request from Senator Jackson. I would like to answer Mr. Allen's statements at the hearings and also his September 28 letter insofar as it concerns my performance as Chief Economist for the Commission.

In my own testimony at the previous day's hearings I carefully avoided rekindling old conflicts within the Commission's staff. I regret that Mr. Allen chose not to follow my example. Instead, he has used the forum of the Subcommittee's hearing to continue the shameful campaign against this Office which he has been stubbornly pursuing since he became an attorney in the Office of the General Counsel almost four years ago. I view his latest criticisms as further attempts on his part to divide the Commission staff and discredit those who appear to disagree with his own philosophy of regulation.

Mr. Allen offered two "examples" of why he personally is unable to place reliance on the advice by the Office of Economics to the Commission. His first "example" is directed to my remarks at the previous day's hearings on the inverse relationship between gas prices and gas supply that has been apparent in recent years. More specifically, in answering Senator Kennedy's question on the reasons for the gas shortage I characterized the industry's recent performance as the "strange case of the backward bending supply curve," since the record shows that the sharp decline in annual additions to gas reserves largely coincided with substantial price increases granted by the Commission. Mr. Allen maintains that it was wrong for me to assume that the usual price-supply relationship that exists in unregulated industries also operates in the regulated gas industry. He attributes the "backward bending supply curve" to the fact that the Federal Power Commission has no power to compel gas producers to make more supply available to the market.

The obvious conclusion to draw from Mr. Allen's argument is that he believes that gas producers are so well protected against competition that they are able to withhold their effort until they get the price they want for their gas. He is saying, in effect, that it is futile for the Commission to attempt to elicit more gas supply by allowing higher prices.

It is ironic to discover that Mr. Allen is of that view since on other occasions he has sided with those who believe that the structure of the gas producing industry promotes effective inter-firm competition. In a competitive industry the member firms are continuously striving to expand their respective market shares, so that there is no reason why higher prices and more attractive economic incentives will fail to elicit higher supplies. My explanation of the perverse price-supply behavior was premised on the monopolistic market power of the major gas producers. I attached great importance to recent actions and policy pronouncements which have encouraged the producers to defer large new commitments to gas supply in anticipation of ever-rising prices and, perhaps, eventual deregulation. The logic of Mr. Allen's argument should lead him to embrace rather than reject my explanation.

Mr. Allen's second "example" is drawn from the comments I sent to Senator Jackson on a draft staff report, "Policy Issues and Options Affecting Natural Gas," which had been submitted to me for review. In reciting some traditional "public utility" arguments for regulating an industry such as the natural gas industry I referred to the "industry's privileged use of the power of eminent domain." He erroneously interprets my statement as referring to *gas producers*, whereas the reference in the text is to the *industry* (i.e., producers, pipelines, and distributors) and to the "interconnected transportation network from wellhead to burner tip." Furthermore, the fact that producers are not granted eminent domain powers is of no consequence, since the gatherers and pipelines purchasing from producers have such powers under State or Federal laws. Either Mr. Allen is unaware of the business arrangements permitting producers to benefit from the power of eminent domain without actually exercising that power, or else he is indulging in picayunish criticism.

Mr. Allen's unsolicited letter to Senator Jackson on September 28, 1973, is a similarly hostile and groundless attack on the Office of Economics. His letter begins with the presumptuous claim that it provides a "more representative assessment of FPC staff reaction to the report of Miss Starratt," thus taking unto himself the right to speak for the staff. Furthermore, Mr. Allen closed the letter with a deceptive statement that it is "the product of joint efforts of the Office of General Counsel and the Bureau of Natural Gas." When Senator Kennedy asked him about that statement at the hearings, Mr. Allen made no attempt to clarify the part played by others in the preparation of the letter. Mr. Leo E. Forquer, the Commission's General Counsel, who also testified at the Subcommittee's hearings, stated that he had not seen Mr. Allen's letter before it was mailed. He also explained that the contribution of attorneys in the Office of the General Counsel to the letter was limited to furnishing some legal citations and references to other source material. They took no responsibility for the decision to write the letter or for its conclusions. I cannot condone Mr. Allen's overbold attempt to depict his critical comments as "representative" of any views other than his own.

Turning to Mr. Allen's specific criticisms of my response to Senator Jackson, I have the following comments:

1. One of my objections to the Interior Committee's draft staff report was that it offered no support for its conclusion that the Commission erred by setting rates on the low side during the 1960's. I based this comment on the evidence I had seen that the Commission's new gas prices during the pre-1968 period closely approximated the prevailing market prices for interstate gas and exceeded the prices in the intrastate market. Mr. Allen does not deal with that evidence. Instead, he objects to the area rate approach on the ground that some high-cost producers probably were unable to operate at a profit under the Commission's cost-based rate ceilings. It would seem that Mr. Allen assumes that there is an economic justification for covering the cost of every individual gas producing venture, which is of course not true. The area rates are intended to cover the necessary cost of securing an adequate gas supply. Mr. Allen's comment has nothing to do with the issue of whether the ceilings were too low or too high in the pre-1968 period.

2. Next, Mr. Allen states that I was wrong in mentioning time-consuming legal procedures as a primary reason for the delays in adjusting the area rates once it became apparent that the rates had been eroded by inflation. He would place

the chief blame on the moratoriums in some of the Commission's rate orders. He cannot be thinking of the moratorium in the Permian Basin Area because that expired as early as January 1, 1968. It is true that a moratorium was imposed in the Southern Louisiana Area in September 1968 and it was not lifted until October 1970, although the Commission could have terminated it sooner if it wished. In contrast, the increased rate ceilings were not decided for Southern Louisiana until July 1971 and for Permian until August 1973. Moreover, the R-389A Rulemaking to establish new nation-wide rate ceilings, while issued in July 1970, is still awaiting final Commission action.

3. Another of my comments on the staff report was that the report was in error in stating that it was Commission practice to set the commodity component of pipeline rates "just high enough to recover the variable costs of selling the gas." It seemed to me that the author of the report did not understand the Commission's "Seaboard formula" which allocates a portion of a pipeline's fixed costs plus all of the variable costs to the commodity component of pipeline rates. According to Mr. Allen, "The fact is that the Draft Staff Report is not in error * * *," and as proof he quotes from the dissenting statement in a celebrated case in 1959 involving the certification of a new pipeline to serve the City of Chicago.

Although it could be argued that the Chicago case, being *sui generis*, is "the exception which proves the rule," it is by no means clear that Mr. Allen's interpretation of that case is correct. In the Commission Opinion which he cites, the proposed rate schedule was ordered to remain in effect only for a developmental period of one year, "at the end of which time we shall require that Midwestern file rates satisfactory to us, or we shall prescribe new rates." The Commission also explained, "we are not to be understood as abandoning the *Seaboard* case as a method of cost allocation or as a guide to rate design." Finally, it seems that Mr. Allen has ignored the fact that the commodity rate in question cannot be evaluated apart from the minimum commodity charge (based on a 75 percent load factor) that was part of the proposed new tariff. In my opinion, this is one more example of his overzealousness in reaching for excuses to discredit the Commission's economists.

4. Mr. Allen's letter also includes a long explanation of why a producer may need to make additional investments at the very late stages of depletion of a gas reservoir. He claims that I ignored the costs associated with these investments when I objected to a statement in the staff report that "lower prices for old gas inevitably result in gas being left in the ground that otherwise could be produced." The only purpose of my limited comment was to call the committee staff's attention to the Commission's policy of granting rate relief for flowing gas when the relief is cost-based. The Commission's rate regulation does not prevent the economical recovery of the remaining gas if there is a purchaser who is ready to pay a high enough price to cover the costs of producing that gas. Mr. Allen's position seems to be that the Commission cannot handle that problem. I disagree.

The remainder of Mr. Allen's letter consists of his criticisms of the separate submissions which Senator Jackson had requested from Dr. David S. Schwartz and Dr. John W. Wilson, two members of this Office who have made intensive studies of the problems of gas producer regulation.

A particularly distressing aspect of Mr. Allen's determined efforts to derogate the work of the Commission's economists is that his efforts seem to be motivated by the same spirit of implacable hostility that was so noticeable in the behavior of the Commission's former General Counsel, Mr. Gordon Gooch, with whom Mr. Allen was closely associated. This hostility was also displayed in the irresponsible charges against the Office of Economics by Mr. James Tourtellotte, a trial attorney of the Office of the General Counsel, another witness before the Subcommittee on October 17. Such attitudes make it very difficult for many sections of the staff, not alone this Office, to perform their assigned duties.

There is nothing inherently wrong in having different opinions within the Commission staff; indeed, when the differences are based on sound and objective analyses, the regulatory and legislative process will benefit. There are no benefits, however, when the disagreements, such as those expressed by Mr. Allen, are based on spurious logic and distorted arguments.

Sincerely yours,

HASKELL P. WALD,
Chief, Office of Economics.

EXXON Co., U.S.A.,
Houston, Tex., November 1, 1973.

Hon. PHILIP A. HART,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: During the October 18, 1973, hearings before the joint Subcommittees of the Senate Judiciary Committee, John W. Wilson and George L. Donkin, Federal Power Commission Division of Economic Studies, testified on a number of issues related to U.S. natural gas reserves. They devoted considerable time to a discussion of uncommitted gas reserves, shut-in offshore leases, implied and alleged hoarding of gas reserves by major producers, and alleged improper reporting procedures for natural gas reserves.

Dr. Wilson discussed the concentration of ownership of reserves not committed to sale, while Mr. Donkin addressed the subject of federal offshore leases which were identified in his testimony as "producing shut-in." To provide a more complete understanding of these issues, and because Exxon was mentioned specifically in the testimony of both witnesses, I request that the following information be included in the record of those hearings.

In discussing the ownership of uncommitted reserves, Dr. Wilson failed to point out the magnitude of those reserves compared to total proved reserves and did not provide a full understanding of why those reserves are uncommitted.

As reported by the Federal Power Commission on June 25, 1973, "Large Producer Reserves Available for Sale" in the United States, excluding Alaska, were 3.4 trillion cubic feet, or only 1.4 percent of the total proved reserves in the U.S. as of December 31, 1971. The total offshore uncommitted gas reserves contained on federal leases was 1.6 trillion cubic feet of gas, or about one-half of one percent of the total proved reserves in the U.S. as of December 31, 1971. The attached Table 1 gives the details of where these volumes are located. What these figures point out is that uncommitted reserves represent a very small portion of total proved reserves.

From our own Company's experience, we find that gas is uncommitted for one of two reasons:

1. Reserves are so small and/or isolated as to be uneconomical to produce for sale under present market conditions.

2. Reserves are newly discovered and/or sale is under study or negotiation.

For example, Exxon USA reported to the FPC a total volume of uncommitted gas, as defined by the Commission, of 168.8 billion cubic feet as of June 30, 1973. All of this gas falls into Category 2 above, and is presently available for sale. Additionally, however, we also reported 75 billion cubic feet of gas which is scattered throughout the U.S. in 168 different locations (see Table II). This volume of gas is considered non-marketable because it contains some committed reserves (as defined by the FPC) and some reserves which are too small or isolated to pay out either our own or an outside purchaser's pipeline connection. Such uncommitted reserves would fall into Category 1 above.

Once again the volumes being considered are very small when compared to total company proved reserves. In this case, the total uncommitted reserves both available for sale and considered non-marketable amount to a very small percentage of Exxon's proved reserves. The volume considered non-marketable (75 billion cubic feet) is less than 13 days' production for the Company, based on 1972 natural gas sales.

Testimony given by Mr. Donkin dealt with a number of offshore leases of Texas and Louisiana which he identified as "producing, shut-in." While we cannot speak for other companies, the record can be set straight for the thirteen leases owned by Exxon USA. The actual status of these leases that Mr. Donkin alleged to be shut-in is that six are producing, three are actively being explored by current drilling, and we are surrendering our interest in four which have non-commercial hydrocarbon deposits. This information is shown in Table III. Rather than being shut-in, these and other Exxon USA offshore leases are either being produced; or are being actively explored for their hydrocarbon potential; or, if commercial quantities of hydrocarbons are not discovered, the leases are rapidly dropped and returned to the federal government.

The record of U.S. producers as illustrated in South Louisiana does not support the contention that U.S. gas reserves are being hoarded. In fact, natural gas production has exceeded reserve addition in recent years. The attached Table IV shows that Louisiana offshore gas production between 1958 and 1970 increased over 13 times. On a total U.S. basis, excluding the Alaskan North Slope, the

reserve to production ratio has been reduced from 26.9 years in 1950 to 10.5 years in 1972. These results show the strong action on the part of gas producers to deliver gas, not to hoard it.

Finally, Dr. Wilson testified that reserve data submissions "had never been audited against actual company records." This comment was made in spite of the National Gas Reserves Study conducted by the Federal Power Commission in conjunction with the National Gas Survey. In May, 1973, the FPC released the results of that Study and they show that the U.S. gas reserves are actually lower than industry figures. The reserves study was based on geological and engineering estimates made by federal government evaluation teams. These teams had access to raw geological, geophysical, and engineering data from 59 companies who furnished confidential and proprietary information from their company files. In all, the government teams analyzed data from fields representing over half of the total reserves of associated and non-associated gas in the nation. According to the Study, the nation's gas reserves were 261.6 trillion cubic feet at year-end 1970, which is nearly 10 percent below the American Gas Association's estimate of 286.7 trillion cubic feet. Recent downward revisions by the FPC of this Study have increased the percent difference to 11.5. A copy of the Study is included as an attachment to this letter and we request that it be made a part of the hearing record.

Rather than understating the reserve availability in order to hide potential gas reserves, this Study indicates that perhaps industry reports have been optimistic. This optimism is surely not the action that producers would take if they were trying to conceal natural gas reserves.

We hope that the foregoing data will aid in putting the issue of natural gas reserves availability in its proper perspective. We are gravely concerned that any misrepresentation of the facts regarding natural gas supplies will only confuse the larger issue of the nation's ability to meet its energy needs. In this current period of domestic shortages and uncertain external supplies, such confusion can only delay the decisions that are needed to increase this nation's energy self-sufficiency. One of these decisions is the immediate recognition or the need to increase natural gas prices to free-market levels. This will permit natural gas to compete with alternative fuels and will have the dual effect of encouraging the development of new supplies while moderating the increasing demands for natural gas.

Sincerely,

M. A. WRIGHT.

TABLE I.—TOTAL LARGE PRODUCERS PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE

[Million cubic feet at 14.73 lb/in²a at 60° F.]

Area	Total proven reserves as of Dec. 31, 1969, reported by American Gas Association	Large producers reserves available for sale ¹		Total proven reserves as of Dec. 31, 1971, reported by American Gas Association	Large producers reserves available for sale ¹	
		As of Dec. 31, 1969	As of Oct 1, 1970		As of Dec. 31, 1971	As of June 30, 1972
South Louisiana.....	80,769,437	2,014,110	2,173,303	74,968,645	1,770,603	1,873,267
Onshore.....	56,666,983	³ 1,004,206	³ 1,117,499	47,128,723	572,157	398,830
Offshore.....	² 24,102,454	³ 1,009,904	³ 1,055,804	² 27,839,922	1,198,446	1,474,437
Federal.....					1,159,553	1,442,685
State.....					38,893	31,752
Texas gulf coast ⁴	⁵ 67,540,216	1,056,974	735,326	⁵ 60,844,298	631,840	544,441
Onshore.....		597,210	494,405		311,266	344,917
Offshore.....		459,764	240,921		320,574	199,524
Federal.....					305,574	152,624
State.....					15,000	46,900
Permian Basin ⁶	29,977,869	591,927	353,087	26,622,622	445,046	318,976
Hugoton-Anadarko ⁷	36,894,586	355,542	394,963	33,299,985	42,624	⁸ 54,866
Other Southwest ⁸	23,236,084	251,828	430,320	20,657,896	551,694	171,061
Rocky Mountain ¹⁰	17,514,030	198,569	205,620	17,087,479	241,031	264,807
Appalachian ¹¹	6,048,395	7,463	10,846	6,588,177	10,752	11,608

See footnotes at end of table p. 1074.

TABLE 1.—TOTAL LARGE PRODUCERS PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE—Continued
[Million cubic feet at 14.73 lb/in²* at 60° F.]

Area	Total proven reserves as of Dec. 31, 1969, reported by American Gas Association	Large producers reserves available for sale ¹		Total proven reserves as of Dec. 31, 1971, reported by American Gas Association	Large producers reserves available for sale ¹	
		As of Dec. 31, 1969	As of Oct. 1, 1970		As of Dec. 31, 1971	As of June 30, 1972
Unclassified areas:						
Michigan	750,964	4,363	1,115	1,016,482	3,484	0
California	6,870,946	52,222	10,252	5,729,499	58,911	79,568
All others	304,165	45,482	60,002	625,194	61,853	52,470
Total lower "48" ¹²	269,906,692	4,578,480	4,374,834	247,440,277	3,817,838	¹³ 3,401,064
Alaska ¹⁴	5,202,143	¹⁴ 1,406,804	¹⁴ 1,699,297	31,365,341	¹⁵ 27,822,861	¹⁵ 27,817,181
Total, United States	275,108,835	5,985,284	6,074,131	278,805,618	31,640,699	¹⁶ 31,218,245

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 M ft³. Proved reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, proved reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held "available for sale" are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² AGA figures include zone 1 offshore in onshore figures.

³ Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in Docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e., zone 1 is included in onshore). The respondents in Docket No. R-405 included only large producers. The respondents in Docket No. AR69-1 included large and certain small producers as well as pipeline companies.

⁴ Consists of Texas RR. District Nos. 1, 2, 3, and 4.

⁵ Includes offshore reserves.

⁶ Consists of Texas RR. District Nos. 7-B, 7-C, 8 and 8A, and southeast New Mexico.

⁷ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR. District No. 10.

⁸ The revised value is 54,866 MM ft³ rather than the previously reported 54,313 MM ft³. The omission was occasioned by the failure of 1 company to file data under the proper procedures. The company subsequently resubmitted the data.

⁹ Other Southwest includes Arkansas, eastern Oklahoma, Texas RR. District Nos. 5, 6, and 9, north Louisiana and Mississippi.

¹⁰ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and northwest New Mexico.

¹¹ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

¹² Does not include Alaska.

¹³ The revised value is 3,401,064 MM ft³ rather than the previously reported 3,400,511 MM ft³. The omission was occasioned by the failure of 1 company to file data under the proper procedures. The company subsequently resubmitted the data.

¹⁴ For total reserves: The 1,406,804 MM ft³ of reserves in 1969 and the 1,699,297 MM ft³ of reserves in 1970 do not include Alaska North Slope reserves. Alaska North Slope total R-405 reported gas reserves are 26,000,000 MM ft³ of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1976.

For nonassociated reserves: The 1,275,754 MM ft³ of reserves in 1969 and the 1,572,254 MM ft³ of reserves in 1970 do not include Alaska North Slope reserves.

For associated dissolved reserves: The 131,050 MM ft³ of reserves in 1969 and the 127,043 MM ft³ of reserves in 1970 do not include Alaska North Slope reserves.

¹⁵ Includes Alaska North Slope reserves of all producers.

¹⁶ The revised value is 31,218,245 MM ft³ rather than the previously reported 31,217,692 MM ft³. The omission was occasioned by the failure of 1 company to file data under the proper procedures. The company subsequently resubmitted the data.

Source: Compiled by Federal Power Commission pursuant to Docket No. R-405, Reliability of Electric and Gas Service. Order updating National Investigation Issued Sept. 12, 1972.

TABLE II.—PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE

[("Dry" billion cubic feet at 14.73 lb/in² at 60 F]

State and area	Volumes as of Dec. 31, 1972			Volumes as of June 30, 1973		
	Non-associated	Associated and dissolved	Total	Non-associated	Associated and dissolved	Total
California—offshore Federal domain	(6)	(6)	(6)	(6)	(6)	(6)
Colorado	3.0	—	3.0	3.0	—	3.0
Louisiana—offshore Federal domain	2.3	—	2.3	2.3	—	2.3
New Mexico—southeast	.9	—	.9	7.8	—	7.8
Texas:						
RRC District Nos. 2, 3, 4	28.8	—	28.8	19.2	—	19.2
RRC District No. 6	34.6	—	34.6	28.6	—	28.6
RRC District Nos. 8, 8A	—	97.1	97.1	—	97.8	97.8
Subtotal, Texas	63.4	97.1	160.5	47.8	97.8	145.6
Wyoming	1.4	—	1.4	0.7	—	0.7
Miscellaneous ³	—	5.8	5.8	2.3	7.1	9.4
Total reserves reported above	71.0	102.9	173.9	63.9	104.9	168.8
Other reserves ³	—	—	75.0	—	—	75.0

¹ On the basis of available exploratory information, it is estimated that respondent's reserves in the area amount to 170,000,000,000–220,000,000,000 ft³ of associated and dissolved gas. Plans are now being made to obtain necessary government approvals and to install facilities for development, production and delivery of oil and gas. It is anticipated that several years will be required to complete these activities and the accompanying arrangements for delivery of the gas to an onshore market.

² Includes States of Alabama and Florida.

³ In addition to the reserves reported above, Respondent also has approximately 75,000,000,000 ft³ of uncontracted gas reserves in 168 fields scattered throughout the United States which are considered nonmarketable because they are either (i) being utilized for pressure maintenance or gas lift, (ii) needed for lease fuel, or (iii) generally too small to economically justify either respondent's or a purchaser's connection.

Source: Submitted to Federal Power Commission by Exxon Co., U.S.A. (a division of Exxon Corp.) pursuant to FPC Docket No. R-405, Reliability of Electric and Gas Service. Order updating national investigation issued Aug. 1, 1973.

TABLE III

OCS ¹ serial No.	Offshore area	Status as of Oct. 1, 1973
1096	Louisiana	Platform installed, lease producing.
1204	do	Do.
1250	do	Lease within Federal unit producing.
1255	do	Same as No. 1250, additional exploratory drilling underway.
1493	do	No commercial productions, plan to abandon, 1973
1512	do	Additional exploratory drilling underway during 1973.
1619	do	Do.
1658	do	No commercial production, will be abandoned.
1955	do	Platform installed, lease producing.
2115	do	Do.
2132	do	1974 exploratory drilling recommended.
1817	Texas	No commercial production, plan to abandon, 1973.
1831	do	Do.

¹ Refers to lease serial number of table I, testimony by George L. Donkin, FPC Division of Economic Studies, before U.S. Senate Committee on the Judiciary joint hearings before the Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practice and Procedure, Washington, D.C., Oct. 18, 1973.

TABLE IV. LOUISIANA OFFSHORE GAS PRODUCTION

[In billion cubic feet]

	Casinghead gas	Natural gas	Total
1958.....	50	168	218
1959.....	68	258	326
1960.....	87	315	402
1961.....	104	354	458
1962.....	134	454	588
1963.....	160	546	706
1964.....	185	628	813
1965.....	204	773	977
1966.....	252	1,042	1,294
1967.....	308	1,315	1,623
1968.....	357	1,659	2,016
1969.....	393	2,037	2,430
1970.....	445	2,470	2,915

Source: Louisiana Department of Conservation as published in API "Facts & Figures," 1971 edition.

STANDARD OIL CO. (INDIANA),
Chicago, Ill., November 15, 1973.

Re Senate Commerce Committee Hearings on Natural Gas Legislation.

Hon. ADLAI E. STEVENSON III,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENSON: At the subject hearings held on October 24, 1973, you questioned Mr. C. M. Allen of Phillips Petroleum Corporation (Transcript pages 898 et. seq.) as to the 167 Federal Leases covering some 838 thousand acres, offshore Louisiana and Texas, allegedly held as "Producing Shut-in" i.e. not yet connected to a market or put on stream. You indicated that your inquiry related to the testimony given by Mr. George L. Donkin at the joint hearings held on October 18, 1973, by the Subcommittee on Antitrust and Monopoly, and the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee. Mr. Donkin implied there was some relationship between these "idle" acres and the gas shortage. On Tables I. and II. in Mr. Donkin's testimony he listed fourteen leases of Amoco classified as "Producing Shut-in as of January, 1973." I would respectfully ask that I be permitted to supplement and clarify the record to show the true facts as to the status of the 14 leases listed for Amoco.

At the outset let me state that based on the facts pertaining to the Amoco leases I feel sure that Mr. Donkin's implication that there has been improper withholding of natural gas from the market by producers is wholly unjustified and not supportable. As for the fourteen shut-in leases listed by Mr. Donkin for Amoco we find that seven of the leases are connected and producing to the interstate market. Drilling operations are currently being conducted on three leases to define large enough reserves to either set a platform and/or economically justify a pipe line connection. One lease has been in a producing unit which has been dissolved, and three leases have been farmed-out for further exploration by others. These are certainly not "idle" acres. If Mr. Donkin had made appropriate inquiry of the United States Geological Survey he would no doubt have discovered the facts as to the Amoco leases to be as follows:

Eugene Island Blocks 192, 193, 207, and 215

These four leases are all in one producing field, (Block 208 Field); were committed to Transecontinental Gas Pipeline Company August 1, 1968, and went on production January, 1971. Production was shut-in because of a fire on the platform in 1971 but again went on production after extensive repairs in September, 1972 and is presently producing to the interstate market.

South Marsh Island Blocks 32 and 39

These leases were committed to Transecontinental also on August 1, 1968 and are in a unit which has been producing interstate since October 4, 1970 (Block 38 Field).

East Cameron Block 33

This lease was committed interstate to Columbia Gas in July 1972 and has been producing since May 1973. Three development wells were drilled in 1972 and there are now five producing wells on the lease.

Ship Shoal Block 246

This lease was farmed-out to American Petrofina; and then to Consolidated Natural Gas Corporation and a platform is installed and development drilling is in progress. Exploration has resulted in 2 dry holes and 3 shut-in wells.

Ship Shoal Block 292

This lease is far offshore but evaluation drilling is continuing. Three wells have been drilled, the last was completed in July, 1973 as a dry hole; but not enough reserves have yet been indicated to attract a market and economically justify building a pipeline connection out to the area.

West Delta Block 106

This lease is near the West Delta Block 73 Field and with other Amoco leases was committed to Southern Natural June 24, 1967. Amoco drilled two wells, then farmed-out to Chevron. Three wells have been drilled, two of which have been dry holes. There has been one small discovery. As yet not enough reserves have been indicated to construct a platform. A portion of the lease was farmed-out to Chevron.

Vermilion Block 171

Amoco farmed-out its interest in this lease in 1966 to C & K Petroleum. Three exploratory wells have been drilled, the last well was completed in October 1973.

Vermilion Block 288

Three dry holes were drilled. This lease was included in the Vermilion Block 89 Field Unit but the unit has been dissolved. The one producing well was deemed to have insufficient reserves to warrant production and was authorized for abandonment in 1972.

Vermilion Block 147

Four exploratory wells were drilled in 1971. A platform was installed October, 1972 and developmental drilling is currently taking place as well as negotiations for a gas sales contract. Six development wells have been drilled.

Vermilion Block 201

The first exploratory well was completed in July, 1971. Three more wells have been drilled. This lease is still being evaluated as to the size of reserves with the fourth well presently drilling. Gas sales negotiations are in progress.

Please keep in mind that exploratory drilling on and around the complex salt domes prevalent offshore is often extensive and expensive, and often there may be an extended period before reservoirs of sufficient size are found to warrant development. I am sure that you understand that in the normal course of conducting the oil and gas exploration and development business that at any one point in time there will always be a number of Outer Continental Shelf (OCS) Federal leases as well as onshore leases in various stages of exploration and/or development. As a matter of basic economics a producer must find and define large enough reserves to justify building an expensive platform offshore and drilling enough developmental wells to obtain a market. Then a sales contract can be negotiated and a pipeline can be economically justified to connect the reserves to market.

As the above reported facts reflect, and as has been its customary practice, Amoco has been diligent in exploring, and developing its Federal leases, and marketing natural gas when sufficient reserves to justify a market connection have been found. Moreover, I am sure that you will find that the record made in the subject hearings which you chaired will show there is no merit to the allegation that producers as a whole have been withholding gas and not diligently exploring, developing, and marketing their finds of natural gas when they have been in sufficient quantities either on or offshore.

Further also in this regard I would like to elucidate and possibly clarify for the record my discussion at the bottom of transcript page 901 where I commented in connection with your questioning of Mr. C. M. Allen as to why wells or leases are shut-in pending further development and why an OCS or Federal lease is classified as "producing shut-in" and its term extended by the USGS.

In cases where the exploratory finds on OCS leases are too small to economically justify building a platform or getting a pipeline to build its lines out to connect, it is often necessary to shut-in the lease until near-by leases have finds which in the aggregate will make it economical for a pipeline to be built out to pick up the reserves. The USGS lets the producer with a find (capable of producing in paying quantities) but too small to justify a market, to retain the lease in a shut-in status because that producer often has no control over how quickly the near-by leases, owned by others or possibly not even yet put up for lease, can be properly explored. If a producer in such a case were required to release the lease where he has made a find of reserves too small alone to justify constructing a pipeline connection; it would not contribute to making additional supplies available to market but would have just the opposite effect. I trust the foregoing will be helpful in placing my comments at transcript page 901 in proper perspective.

I respectfully request that this letter be made a part of the record in the subject hearings.

Copies of this letter are being sent to Senator Philip A. Hart, and Senator Edward M. Kennedy. I also respectfully ask that they make this letter a part of the record in the joint hearing which they have been conducting and in which the testimony of Mr. Dinkin was received, in order to clarify that record with regard to Amoco's shut-in leases.

Sincerely,

J. P. HAMMOND.

— — —
COLUMBIA, MD.,
November 26, 1973.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: In a letter addressed to you dated November 1973, Mr. M. A. Wright of Exxon expressed his views with respect to testimony which I presented before a joint session of the Administrative Practice and Procedure Subcommittee and the Antitrust and Monopoly Subcommittee of the Senate Judiciary Committee which was chaired by you on October 18, 1973. This letter is in response to points of apparent confusion which were raised by Mr. Wright. If you do include Mr. Wright's communication in the hearing record, you may also wish to include this response.

First, as Mr. Wright noted, my testimony dealt with "uncommitted" rather than "total" gas reserves. As you know, the principal reason for that focus was the fact that the explicit subject of the entire proceeding was data pertaining to uncommitted gas reserves. As the record indicates, I was assigned by the Federal Power Commission, at Chairman Hart's request, to analyze these specific data and to report to you on them. I, of course, reviewed and reported on all of the available data submitted by the petroleum industry to the FPC under the Commission's investigation of available natural gas supplies as of December 31, 1971, and June 30, 1972.

You may recall that I was quite critical of the quality of these data. In fact, as I indicated at the hearing, they were apparently so poor and incomplete that it would not be advisable to reach any firm conclusions based on these reserve reports alone.

I also stated that to my knowledge no audit had been made of these uncommitted reserve data which were submitted by the petroleum companies. Mr. Wright's objection to that statement, which appears at the top of page three of his letter, is not well founded. He is there referring to an entirely different matter which was not in any way related to petroleum industry reports of available uncommitted reserves. Contrary to the implication of his statement, the fact remains that there was never any audit of the data which were the subject of your hearings nor, to my knowledge, has there ever been an audit, at any time, of the industry's reports of uncommitted available gas reserves. Unfortunately, however, these were the only such data available to the Committee from the FPC simply because they are the only information of this type that have been supplied by the petroleum industry.

A second point of substantive confusion concerns Mr. Wright's contention that the appropriate data base should be total reserves rather than uncommitted reserves. Given the context of the Committee's interest, he is not correct. The Antitrust and Monopoly Subcommittee's factual inquiry was addressed to the question of current competitive supply market conditions in the natural gas producing industry. While total committed reserves greatly exceed available uncommitted proved reserves, they were simply not at issue in this inquiry because they are

already under contract. When reserves are already under contract, it is obvious that they cannot be construed as an available new supply. Therefore, the Committee's focus was quite correct, though it would be an improvement if the FPC were to collect data on all uncommitted reserves (e.g., including reserves held for direct industrial sale, warranty sale, and company use) rather than just reserves "available" for interstate sale.

To draw a simple analogy to Mr. Wright's contention, it would be quite misleading to argue that because there have been a total of 15 Chief Justices and 89 Associate Justices who have served on the Supreme Court, those serving at the present time are not especially important because they represent only 8.654 percent of the total. While precedent lives on, the present Court determines current judicial policy. Similarly, while committed gas continues to flow under previously negotiated long-term contracts, it is the control over available and uncommitted supplies which determines current competitive field market conditions.

Accordingly, virtually all of the data submitted for the record by Mr. Wright, including the voluminous May, 1973, National Gas Survey Reserve Study, are quite extraneous to the subject of the present factual inquiry—though their inclusion in the record may serve to confuse the issue and mislead those who have not followed the entire course of the matter under investigation.

Given Mr. Wright's interest in assisting the Committee, it would be useful to request that he submit for the record a calculation of the percentage of the 286.7 tcf of gas reserves reported by the A.G.A. which were in reservoirs that were either wholly or partly owned by Exxon or its affiliates. Exxon and other major producers have not as yet supplied that information and federal agencies like the FPC have not collected it. If such a request is made, data submissions should be designed with considerable care. For example, where reserve ownership or production is a joint venture between several companies, producers should be instructed to report both the aggregate reservoir volume and working interest allocations. Failure to make complete reports of that type would result in further misspecifications of market control.

It would also be desirable to request data reflecting the ownership of probable and potential natural gas reserves which producers have not yet converted to the "proved" category. It should be noted that Mr. Wright's letter omits reference to anything other than reserves which are classified as "proved" under the A.G.A. definition of that term. It has been estimated that this "proved" category accounts for less than 20 percent of U.S. reserves recoverable under present technological and economic conditions. The question concerning the "contention that U.S. gas reserves are being hoarded" raised by Mr. Wright cannot be answered, as he implies, on the basis of changes in the proved reserve to production ratio. A major issue in answering the hoarding question is whether probable and potential reserves are being "proved" at an optimal rate. In other words, it is the marked drop off in new reserve additions and the relevant finding to production ratio (rather than the R/P) which is the crux of the matter. Particularly in light of the inverse relationship between price and new reserve additions in the last five years, this area of objectification by Mr. Wright would be most illuminating.

Finally, I would like to note that Mr. Wright's criticism of Mr. Donkin's report on shut-in leases is quite inappropriate. Mr. Donkin, who is a dedicated and meticulous civil servant, compiled his report from U.S. Geological Survey records. It is a distortion on Mr. Wright's part to characterize Mr. Donkin as "alleging" that these leases are shut-in. That was not Mr. Donkin's allegation; rather, it was precisely what official U.S.G.S. records showed to be the case as of the end of 1972.

Mr. Wright concludes with an expressed "hope" that his letter puts "the issue of natural gas reserves availability in its proper perspective." This, he says, will show the "need" for "free market" natural gas price levels. Unfortunately, however, his submission provides no information bearing on the question of whether "free markets" can be expected to be structurally and behaviorally competitive. That, of course, is what must be determined before we can conclude that prices attained in such markets would be in the public interest. Information of the type which I have suggested above would have some bearing on this fundamental question.

Conversely, to focus as Mr. Wright does on total rather than available reserves and to concern oneself only with those reserves which have been formally classified as "proved" is to postulate a framework which is extraneous to the question of gas availability. Rather than putting issues in perspective, this tends to lead to confusion and misapplication.

I hope that these comments will be a useful addition to the hearing record. I greatly appreciate the consideration by yourself and Senator Hart in offering me an opportunity to respond to Mr. Wright's statement. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

JOHN W. WILSON.

PHILLIPS PETROLEUM Co.,
Bartlesville, Okla., November 2, 1973.

Hon. ADLAI E. STEVENSON,
U.S. Senator,
Old Senate Office Building,
Washington, D. C.

DEAR SENATOR STEVENSON: At page 898 of the transcript of the hearings held October 24th before the Commerce Committee, I made reference to certain leases which Mr. George L. Donkin had testified were classified "Producing Shut-in as of January 1973". This testimony was presented at a Joint Hearing before the Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practice and Procedure held October 18, 1973. Phillips was attributed with ownership of five leases in the federal offshore area. Though Mr. Donkin's statement made no effort to explain or inquire into the reason for such shut-in leases, the clear implication of his statement was that the petroleum industry is holding offshore leases and refusing to produce them even though "production would be a paying endeavor" (emphasis supplied).

As I tried to indicate to you, this is certainly not the case with leases held by Phillips and is an unfair and unjustified characterization. That the record may be complete we offer the following facts relative to the five leases attributed to Phillips and respectfully request that this letter be made a part of the record being compiled by your Committee. By copies hereof to Senators Hart and Kennedy we make the same request of them as to the record of the Joint Hearing before the Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practice and Procedure.

1. East Cameron, Block 161 (OCS Serial 544).

This block was purchased in 1955 and a gas well was completed in 1960. A confirmation well was drilled but resulted in a dry hole. The reserves were too small to attract a pipeline market and the lease was released in August, 1973.

2. East Cameron, Block 273 (OCS Serial 2048).

This block was purchased in December, 1970. The first gas well was completed in 1972. A total of four producers and four dry holes have been completed on the block. The lease was connected to Columbia Gas Transmission in September, 1973, and production is presently being delivered in interstate commerce.

3. West Cameron, Block 146 (OCS Serial 1996).

This block was purchased in December, 1970. The first gas well was completed in 1971. A total of two producers and three dry holes have been completed on the block. The lease was connected to Columbia Gas Transmission in June, 1973, and production is presently being delivered in interstate commerce.

4. West Cameron, Block 544 (OCS Serial 2011).

This block was purchased in December, 1970. The first gas well was completed in January, 1973. A total of one producer and three dry holes have been completed on the block. The block is committed to Columbia Gas Transmission but the purchaser has not yet built facilities to connect the lease to its pipeline system.

5. South Marsh Island, Block 80 (OCS Serial 1212).

This block was purchased in 1962. The first gas well was completed in 1966. Two additional dry holes were drilled. The reserves on this block were too small to attract a pipeline market and Phillips is currently in the process of releasing the lease.

Phillips has diligently carried on a development program on the leases it owns in the federal offshore area. Where reserves have been large enough for a pipeline company to justify making a connection, the gas has gone into the interstate market. On the two blocks which are being (or have been) released, a total of 3.9 million dollars was lost in lease bonuses paid to the Federal Government. Additionally, the very substantial drilling and other exploratory expenses were lost.

Based on my experience I believe you will find that the foregoing facts will be typical of the experience of other companies on Mr. Donkin's list. I trust that this information will be of assistance in putting into proper perspective the information and figures presented by Mr. Donkin.

Yours very truly,

C. M. ALLEN.

GULF OIL Co.—U.S.,
Tulsa, Okla., November 12, 1973.

Hon. ADLAI E. STEVENSON,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENSON: On October 25th, before the Commerce Committee of the United States Senate, Mr. Lee White submitted for the record testimony of George L. Donkin which had been placed of record at a Joint Hearing before the Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practice and Procedure on October 18, 1973. Mr. Donkin's testimony concerned certain leases which were classified as "Producing Shut-in as of January, 1973". The implication left by Mr. Donkin and in turn by Mr. White was that large tracts of gas producing acreage were being held off the market by independent producers.

Gulf Oil Corporation has introduced in this proceeding, as it had previously submitted in the June 1973 hearings of the Subcommittee on Antitrust and Monopoly, a response to James T. Halverson, Director of Bureau of Competition of the Federal Trade Commission, concerning reserve estimates. Appendix C of that statement is a detailed analysis of the leases in which Gulf owns or owned an interest upon which drilling activities were undertaken but from which no gas production had been delivered as of July 1, 1973. For your particular information I am taking the liberty of attaching to this letter excerpts from Exhibit C which cover the same leases attributed to Gulf by Mr. Donkin. These excerpts detail the operating experience on these leases, the reasons for their classification as shut-in producing, and the status of those leases as of July 1, 1973. Mr. Donkin's schedule includes nine leases in which Gulf has an interest. Of those nine four were allowed to terminate after January 1, 1973 because no commercial production of either oil or gas was found. A fifth lease, OCS 981, was under contract to Sea Robin Pipeline Company for more than a year prior to the date Mr. Donkin indicates it was shut in and actual deliveries began on January 29, 1972. His data is patently in error. Of the four remaining leases two were developed as oil potential with insufficient gas for even lease operations and inadequate oil reserves to justify further development at this time. The remaining two leases have been drilled but have not been proven to have gas reserves sufficient to encourage development, however attempts are being made to farm them out to a producer who would be willing to risk further drilling.

This letter is being submitted for inclusion in the record of the hearings related to the Natural Gas Act and the Federal Power Commission both before the Senate Committee on Commerce and the Subcommittee on Antitrust and Monopoly.

Yours very truly,

B. JAMES McGRAW,
Attorney.

East Cameron Block 125 S/2 (OCS 0528)

Gulf has a $\frac{5}{16}$ working interest in 2500 ac. which were acquired from Spencer Chemical Company in 9/64. Kerr McGee is the operator with $\frac{15}{16}$ working interest.

Kerr McGee completed as a shut in gas well the # 1 OCS 0528 on May 1, 1960. On IP from perforations 9732-38; 9740-50 the well made 7000 MCFG on $\frac{1}{4}''$ ch. with TP 6800#. On July 11, 1961 Kerr McGee made application to Director, USGS, for Suspension of Production under provision of 30 CFR 250.30 on the grounds of lack of transportation facilities for disposition of the gas.

In letter of July 31, 1972 the USGS requested a plan of development for additional wells by February 1973. Due to the lack of commercial reserves, it was impossible for Kerr McGee and Gulf to establish a plan of development and it was decided to attempt to farm out the lease. This plan was unsuccessful due to the unattractiveness of the prospect and it was finally decided to let the lease expire in August 1973.

U.S.G.S. Letter 1/25/71

"Gulf's lease program is review rather than exploratory—should not request another suspension without lease activity."

U.S.G.S. letter 2/29/71

"possibility of drilling deep test—suspension granted for 6 months, through 8/28/72".

Gulf letter 7/10/72

"negotiating farmout to Ocean Drilling and Exploration Company until 1/12 ORR—well to 16,500'."

U.S.G.S. letter 8/2/72

"farmout to Odeco for No. 9 well—suspension through 2/28/73". Odeco OCS 1179 No. 9 Dry 9/1/72.

*S.M.I. Block 8 dropped 2/22/73.**South Marsh Island Block 7. OCS G-1179. 3146 Acres.*

Acquired 3/1/62—100% Gulf

Bonus \$3,104,200 Rental \$3/acre

5 year term 1/6 Royalty

Original 5 year term expiration date 2/28/67.

No. 1—dry and abandoned 7/7/62

No. 2—dry and abandoned 7/31/62

No. 3—dry and abandoned 6/4/64

No. 4—TA 6/23/64

No. 5—St'd out of No. 4 1/20/65

No. 6—dry and abandoned 2/27/65

No. 7—Completed 3/23/65 FARD 36 BCPD and 2400 MCF TP 2250# S.I.

No. 8—P & A 10/10/67

U.S.G.S. letter 2/2/67

"No. 7 completed—paying quantities—no market for gas granted suspension of production through 2/29/68, pay minimum royalty \$9441." Well No. 8 P & A 10/10/67.

U.S.G.S. Letter 2/17/69

"Suspension of production through 2/28/70".

U.S.G.S. Letter 1/21/70

"Gulf effort for joint interest well unsuccessful reviewing full interest risk well—can not negotiate suitable market for small gas reserve—suspension of production granted through 2/28/71".

A gas sales contract was executed with Sea Robin Pipeline on August 19, 1971. They completed the laying of a line into the area of platform "E" and received their first delivery on January 29, 1972. Well E-2 was connected and began delivery of gas and condensate to the system.

Additional drilling during 1972 to further extend the limits of the gas productive area of the lease was unsuccessful.

Eugene Island Block 237, OCS G-0981

OCS G-0981 Lease, dated June 1, 1962 provides for $\frac{1}{6}$ royalty (.16667) a 5 year term, covers the entirety of Block 237 containing approximately 5000 acres and is owned by Gulf Oil Corporation.

The subject lease was established as a productive lease by the completion of well D-1 as an oil producer on August 25, 1965. Wells D-2, D-3, D-4 and D-6 drilled on this lease did not encounter commercial production and were abandoned. Since no other wells were productive on the "D" platform, a mud line completion was made on Well D-1 to permit the platform to be used in another area and to await other development in the area.

Well E-2 was directionally drilled from another lease (OCS G-0982) to test another portion of the lease. It encountered gas sands which were tested. Operations on E-2 were suspended on May 28, 1966 to await additional development and the installation of a gas line in the field.

Of the first 6 wells drilled on this lease, five were from platform "D" and one was from platform "E" located on an adjacent block. Four wells were abandoned, one was completed as capable of producing oil and one was completed as capable of producing gas. It was not economically feasible to establish producing facilities for the oil well which was not located in the same area as the gas well. The gas well could not be produced because there was no gas line in the vicinity. During the early years of production these were unsufficient reserves to justify the cost of laying a gas line to the field.

South Timbalier Block 123, OCS G-1560

OCS G-1560 Lease, dated July 1, 1967, provides for $\frac{1}{6}$ royalty (.16667) 5 year primary term, contains 2,148.46 acres and was owned by Gulf Oil Corporation.

Gulf released all the acreage contained in this lease on June 25, 1973. The subject lease was tested by directionally drilling Well I-7 from Platform "I" located on Grand Isle Block 85. The well was completed as a shut-in gas well on October 22, 1967 pending additional development.

The second well on the lease, No. 1, was spudded on October 20, 1967, and was drilled to a total depth of 13,353 feet. It was non-productive and was abandoned on November 25, 1967. A small producer with very limited reserves, a dry hole plus detailed study of seismic date in the area, and development in adjacent blocks did not justify further operations on the lease. Therefore, since the reserves encountered in Well I-7 would not economically justify the installation of the facilities required to produce the well, the lease was released.

OCS 1256—5,000 Acres, S/T Blk. 172, Gulf WI 100%. Lease Date 6/1/62

- 2/12/65—Well No. A-1 plugged and abandoned.
- 4/5/65—Well No. A-2 completed as a commercial gas well flowing at the rate of 2,555 MCFD.
- 4/12/67—"Production Relief" granted by USGS because no gas market was available.
- 12/8/67—S/T Block 172 was one of 6 leases presented to the U.S.G.S. as a proposed Federal Unit. The USGS would not recommend a unit which included Blk. 172.
- 6/7/68—"Production Relief" extension granted by USGS because no gas market available. Extensions were granted each year through May 1, 1973.
- 6/2/72—Well No. A-3 plugged and abandoned after finding no commercial shows.
- 8/9/72—Ocean Drilling and Exploration Company farmout, Well No. 1, abandoned with no commercial shows.
- 9/9/72—ODECO Well No. 2 was abandoned with no commercial shows.
- 4/11/73—"Production Relief" extension granted by USGS to allow time for review of geophysical and geological data.
- July 1973—The limited gas reserves of 4,460 MMCF assigned to Well No. A-2 will not justify the additional expenditure required to place the well on production, even though the well tested 2,555 MCFD on completion. It would be necessary to lay approximately 11,000' of 8" line to reach the Exxon market facilities. Three dry holes have been drilled on Block 172 in an unsuccessful attempt to establish additional reserves. Attempts are now being made to farm out the south half of the lease.

OCS-G-1100, 5,000 Acres, West Delta Blk 116, Gulf WI 100%. Lease Date 6/1/62.

- 8/24/64—Well No. B-3 plugged and abandoned as a dry hole.
- 4/11/65—Well No. B-8 completed as a shut-in gas well after flowing at the rate of 36 BOPD and 1750 MCFD. Reserve about 1.1. CBF
- 5/10/67—"Production Relief" granted by USGS. The "B" platform was lost as a result of hurricane "Betsy" which caused well No. B-8 to be temporarily abandoned as a mud line line completion.
- 6/6/68—"Production Relief" extension granted by USGS. West Delta Blk 117 was being developed to aid in the evaluation of Blk. 116. Extensions were granted by the USGS through April, 1971, while Blk 117 was developed.
- 5/12/72—Production Relief granted by USGS through May 31, 1973. All attempts to extend the productive limits of several sands from Blk. 117 onto Blk. 116 have been unsuccessful.
- 7/24/72—Well No. 1 was drilled in Blk. 116 and abandoned dry.
- 5/23/73—"Production Relief" granted by USGS. Approximately 18 miles of seismic exploration was conducted by Gulf for further evaluation of Blk. 116. Gulf is attempting to develop the lease by negotiating a farmout that will provide for the drilling of a well within 90 days.
- July-1973—No farmout has been obtained to date. The limited reserves which have been assigned to the B-8, temporarily abandoned gas well, will not justify the additional expenditures necessary to recomplete the well and place it on production.
- OCS G-1620, 3540 acres, South Pass Block 94, Gulf WI 100%. Lease Date 7-1-67.*
- 8-26-70—Well No. 1 completed as a shut in oil well after a review of the well logs indicated the well would be capable of producing hydrocarbons. Gas reserve less than 1 BCF.
- 9-24-70—Well No. 2 plugged and abandoned as dry hole.

5-10-72—"Production Relief" granted by USGS to wait on Humble test to be drilled on Block 93. The proposed location is only 330' east of Block 94 and will aid in the evaluation of Block 94.

7-25-72—Humble OCS Lease 1619, well No. 2, plugged and abandoned as non-commercial. Gulf contributed \$200,000 to be drilling of this offset to Block 94.

6-8-73—"Production Relief" extension granted by USGS through 6-30-74 to wait for exploratory test by Exxon on their diagonally adjacent lease OCS G-2188.

July 1973—The limited reserves assigned to Well No. 1 will not justify the additional expenditure necessary to put the well on production. One dry hole drilled on the lease and one dry hole drilled 330' from the lease have failed to increase lease reserves. Now waiting evaluation of proposed Exxon exploratory test.

OCS G-1609, 5000 Acres, South Pass Block 61, Gulf WI 100%. Lease Date 7-1-67.

8-14-68—Well No. A-1 completed as a shut in oil well after testing 192 BOPD and 79 MCFD on a one-hour test.

8-17-69—Hurricane Camille destroyed "A" platform and forced abandonment of all wells drilled from the platform.

2-3-72—"Production Relief" granted by ISGS because of loss of production platform.

6-19-73—USGS granted extension of "Production Relief" through 6-30-74. Eleven wells drilled from the "A" Platform had to be plugged and abandoned after the platform was extensively damaged by "Camille." In order to produce the lease a new production platform would have to be set and high angle directional wells drilled. There are indications of unstable bottom conditions which would increase the cost of the platform installation. An evaluation of the lease indicates the 5 million barrels of oil reserves assigned to the lease will not justify the large expenditures which will be required to put the lease back on production. We have recently contracted for seismic services which will aid in the final evaluation of the lease. Gas reserves inadequate for lease operation. If new platforms were built and new wells drilled, there would be no gas to sell.

CHEVRON OIL CO.,
THE CALIFORNIA COMPANY DIVISION,
New Orleans, La., November 15, 1973.

Hon. EDWARD M. KENNEDY,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: During the October 18, 1973 hearing before the joint subcommittee of the Senate Judiciary Committee, George L. Donkin of the Federal Power Commission discussed the subject of federal offshore leases which were identified in his testimony as "producing shut-in." In order to provide a complete understanding of this subject and because our company was specifically referred to by this witness, I request that the following information be included in the record of those hearings.

The testimony by Mr. Donkin dealt with a number of federal leases offshore of Texas and Louisiana which he identified as producing shut-in. I would like to set the record straight with respect to the 24 leases owned by Chevron Oil Company, California Company Division. The actual status of these leases that Mr. Donkin alleged to be shut-in is as follows:

1. Ten leases are currently producing gas for the interstate market or are scheduled to be producing gas for the interstate market in 1974.

2. Eight leases are actively being explored with drilling having taken place in 1973 or scheduled in 1974.

3. We have surrendered our interest in one lease.

4. One lease was assigned to Shell Oil Company in 1961.

5. On four leases we are evaluating geological data, drill stem test data and geophysical data to determine whether additional drilling is justified and, if so, where the wells should be located in order to develop sufficient reserves to justify economic production. Upon completion of our analysis we will either conduct further drilling or surrender these leases.

This information is shown in detail on the attached Table A. Of the 24 leases discussed by Mr. Donkin, two are no longer held by Chevron. The remaining 22 leases are producing gas for the interstate market or are scheduled to produce interstate in 1974, are being actively explored for their hydrocarbon potential, or are being evaluated to determine whether to drill additional wells or to surrender the acreage.

We hope that these data will aid in putting the issue of shut-in wells in its proper perspective. We are most concerned that any misunderstanding or misinterpretation of the facts regarding the development of federal offshore leases will serve only to confuse the larger issue of the nation's ability to meet its energy needs.

Very truly yours,

L. C. SAILEAU III, *President.*

TABLE A

1. The ten leases which are currently producing gas for the interstate market or are scheduled to produce gas for this market in 1974 are: OCS Serial No. 0970, 1180, 1240, 1241, 1629, 1633, 1649, 2041, 2051, 2125.

2. The eight leases on which we are currently drilling or have drilled in 1973, or are scheduled to be drilled in 1974 (this includes drilling of wells offsetting these leases) are: OCS Serial No. 1035, 1234, 1261, 1269, 1535, 1585, 1586, 1612.

3. The lease which has been surrendered is: OCS Serial No. 1437.

4. The lease which was assigned to Shell in 1961 is: OCS Serial No. 0433.

5. The four leases on which we are currently analyzing geological, geophysical, drill stem test and other related data to determine whether further drilling is justified, and if so, the appropriate location for such drilling to develop sufficient reserves to support economic production and which upon completion of our analysis will be subjected to further drilling or be surrendered are: OCS Serial No. 1542, 1594, 1597, 1900.

**UNION OIL AND GAS DIVISION,
UNION OIL CO. OF CALIFORNIA,
Los Angeles, Calif., December 4, 1973.**

Hon. EDWARD KENNEDY,
*Acting Chairman, Subcommittee on Antitrust and Monopoly, Committee on the
Judiciary, Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR KENNEDY: On October 18, 1973, your Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practice and Procedure in a joint hearing accepted testimony by Mr. George Donkin. In Mr. Donkin's testimony there was a list which included eleven leases held by Union Oil Company of California in Federal waters in the Gulf of Mexico that are classified by the United States Geological Survey as "held by production". Mr. Donkin concluded that these leases contain economically producible hydrocarbon reserves that Union refuses to make available to buyers.

As you will see from the attached histories of the eleven leases, this is not the case. Although the U.S.G.S. may classify a lease as "held by production", three results can occur which are different from that suggested by Mr. Donkin: (1) The lease being released because all evidence points to the impossibility of production in sufficient quantities to recover the costs of leasing, drilling, production and related costs; (2) the lease being maintained temporarily while efforts are made to gather more information to determine whether or not such costs may be recovered; and (3) the lease being maintained while necessary contractual arrangements are made, governmental authority obtained, and facilities installed to deliver gas to the market.

The attached histories of the eleven leases will demonstrate that Union has not refused to make reserves available to buyers.

We respectfully request this attachment be entered in the record of your Committee. If any further questions arise relative to this matter, please feel free to contact the undersigned.

Very truly yours,

FRANCIS J. BARKER, *Vice President.*

Attachment:

LEASE DATA

VERMILION BLOCK 201

Lease description: Vermilion 201, OCS-G 2075.
 Date of lease sale: December 15, 1970.
 Date lease classified H.B.P.: December 29, 1972.
 Total bonus paid: \$3,616,800.
 Approximate money spent over bonus: \$4,656,000.

The first exploratory well drilled on this block did not find commercial hydrocarbon deposit. The second exploratory well drilled on this lease encountered commercial gas production and qualified the lease to be "held by production". A platform has been set and three wells drilled, of which the last well drilled was a dry hole. A contract for sale of this gas is being negotiated with Texas Eastern Transmission Corporation which will require approval by the Federal Power Commission for a Certificate of Public Convenience and Necessity. Texas Eastern has made an application with the Federal Power Commission for a Certificate of Public Convenience and Necessity to lay a pipeline from this lease as well as Vermilion Block 147. Another exploratory well is currently drilling on this lease.

VERMILION BLOCK 147

Lease description: Vermilion 147, OCS-G 2071.
 Date of lease sale: December 15, 1970.
 Date lease classified H.B.P.: December 29, 1972.
 Total bonus paid: \$2,506,800.
 Approximate money spent over bonus: \$5,760,000.

The first exploratory well drilled on this lease encountered one gas and one oil sand. The well was tested and the lease was classified "held by production" by the U.S.G.S. The next three wells drilled were either dry holes or encountered non-commercial hydrocarbon accumulations. A platform was set over the first hole and six more wells were drilled. Three of these are capable of commercial gas production and a contract is now being negotiated with Texas Eastern Transmission Corporation, which will require approval by the Federal Power Commission for a Certificate of Public Convenience and Necessity. Texas Eastern has made an application with the Federal Power Commission for a Certificate of Public Convenience and Necessity to lay a pipeline from this lease.

SOUTH MARSH ISLAND BLOCK 75

Lease description: South Marsh Island 75, OCS-G 1207.
 Date of lease sale: March 16, 1962.
 Date lease classified H.B.P.: May 17, 1966.
 Total bonus paid: \$215,000.
 Approximate money spent over bonus: \$2,620,000.

The first well drilled on this lease encountered a minor gas accumulation sufficient for the U.S.G.S. to classify the lease as "held by production". Subsequent deepening of this well encountered no reserves. A follow-up well was unsuccessful and the lease was surrendered on May 29, 1973.

SHIP SHOAL BLOCK 299

Lease description: Ship Shoal 299, OCS-G 1044.
 Date of lease sale: March 13, 1962.
 Date lease classified H.B.P.: October 31, 1966.
 Total bonus paid: \$810,250.
 Approximate money spent over bonus: \$3,340,000.

To evaluate this lease, Union has drilled six exploratory wells. The fourth well encountered a 12-foot oil sand. The well was tested and indicated producibility sufficient to the U.S.G.S. to classify the lease "held by production", but the reserves proved by this well were insufficient to merit the installation of a platform. The U.S.G.S. permitted a unit to be formed with Ship Shoal Block 300. A well drilled in July, 1973, on this lease attempted to evaluate the unit. This well was also a dry hole. Currently, Union plans further exploratory drilling by itself or under a farmout agreement in an attempt to locate sufficient reserves to merit the installation of a platform.

SHIP SHOAL BLOCK 300

Lease description: Ship Shoal 300, OCS-G 1045.
 Date of lease sale: March 13, 1962.
 Date lease classified H.B.P.: November 30, 1966.
 Total bonus paid: \$210,250.
 Approximate money spent over bonus: \$1,081,000.

Two exploratory wells have been drilled on this lease. The first encountered a 12' oil sand stringer. The well was tested and was sufficiently productive to be classified, "held by production" and to encourage further exploratory work. The follow-up well was dry. As was mentioned in Ship Shoal Block 299, a unit has been formed of these two Blocks and further exploratory activity is contemplated.

BRAZOS 544

Lease description: Brazos 544, OCS-G 1736.
 Date of lease sale: May 21, 1968.
 Date lease classified H.B.P.: May 11, 1972.
 Total bonus paid: \$3,047,000.
 Approximate money spent over bonus: \$1,047,000.

The first well drilled on this lease encountered gas sufficient to enable the lease to be classified as "held by production". A well was then drilled on a block to the east as a direct offset but failed to find hydrocarbon. A seismic survey is now being conducted to determine whether or not further drilling is justified.

BRAZOS A-47

Lease description: Brazos A-47, OCS-G 1748.
 Date of lease sale: May 21, 1968.
 Date lease classified H.B.P.: February 25, 1969.
 Total bonus paid: \$3,116,160.
 Approximate money spent over bonus: \$2,599,000.

The first well drilled on this lease encountered gas. The well test was sufficient to classify the lease "held by production" and to encourage further exploration. The first and two subsequent exploratory wells have not revealed commercial production. A seismic survey is now being conducted to determine whether or not any more wells will be drilled on this lease.

BRAZOS A-102

Lease description: Brazos A-102, OCS-G 1754.
 Date of lease sale: May 21, 1968.
 Date lease classified H.B.P.: February 9, 1972.
 Total bonus paid: \$18,576,000.
 Approximate money spent over bonus: \$2,226,000.

The first well drilled on this lease encountered no hydrocarbons and was plugged and abandoned. The second well encountered some gas accumulations. The well was tested and the lease was classified as "held by production". A third well attempting to extend the productive area to the north resulted in a dry hole. Any gas found on this lease and Brazos A-105 is committed to Natural Gas Pipe Line Company of America. However, the cost to develop and produce the reserves currently known to exist on this lease is more than the gas can be sold for in interstate commerce.

BRAZOS A-105

Lease description: Brazos A-105, OCS-G 1757.
 Date of lease sale: May 21, 1968.
 Date lease classified H.B.P.: September 29, 1971.
 Total bonus paid: \$8,133,000.
 Approximate money spent over bonus: \$3,815,000.

The first well drilled on this lease was dry. The second well encountered gas sands sufficient to classify the lease as being "held by production". The third well was dry and the fourth well drilled encountered non-commercial gas sand. As is the case with Brazos A-102, any gas found on this lease is committed to Natural Gas Pipe Line Company of America. However, insufficient reserves have been found to date to justify the expense of platform and pipeline installations to sell the gas in interstate commerce.

BRAZOS A-43

Lease description: Brazos A-43, OCS-G 1745.

Date of lease sale: May 21, 1968.

Date lease classified H.B.P.: May 22, 1972.

Total bonus paid: \$29,151,360.

Approximate money spent over bonus: \$1,418,000.

The first well drilled on this lease encountered 10' of gas sand. The well was tested. The results were unsatisfactory and the U.S.G.S. did not classify the lease as "held by production". A second well encountered a 20' gas sand stringer, which was tested and the U.S.G.S. classified the lease as being "held by production". A seismic survey is being completed to assist the exploratory program on this lease in the hope of finding enough encouragement to warrant additional drilling so as to find reserves to justify building a platform and laying a pipeline.

GALVESTON A-84

Lease description: Galveston A-84, OCS-G 1807.

Date of lease sale: May 21, 1968.

Date lease classified H.B.P.: October 30, 1969.

Total bonus paid: \$8,142,000.

Approximate money spent over bonus: \$1,407,000.

The first well drilled on this lease encountered a hydrocarbon accumulation sufficient to classify the lease "held by production". The second well drilled on this lease was dry. This lease appears so unpromising that unless there are unexpected favorable developments in the near future Union will abandon its exploratory efforts on this lease and quitclaim its rights.

SHELL OIL Co.,

Houston, Tex., November 28, 1973.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: On October 18, 1973, Mr. George L. Donkin, an economist with the Federal Power Commission, introduced certain evidence with reference to leases in the Federal Domain Offshore Louisiana classified as "producing shut-in" in a Joint Hearing of the Subcommittee on Antitrust and Monopoly, and the Subcommittee on Administrative Practice and Procedure, of Senate Judiciary Committee. In this testimony, Mr. Donkin stated that Shell had more than 40,000 acres in the "producing shut-in" category at the beginning of 1973, and in his exhibit listed nine Shell leases. Mr. Donkin then referred to the "shroud of corporate secrecy" and sought to infer from the data which he submitted that Shell has discovered gas reserves which are being withheld from the market. On the same date, Mr. John W. Wilson, also an economist with the Federal Power Commission, filed testimony in which he sought to infer from the statistics compiled by Mr. Donkin that the ten largest natural gas producers, including Shell, had inaccurately reported to the Federal Power Commission reserves available for sale.

Specifically with reference to the nine Shell leases referred to in Mr. Donkin's exhibit, two of these leases have been surrendered, one has been assigned to another gas producer, and two are now producing and selling oil and gas. This leaves four leases in the "producible shut-in" category. Shell has drilled a total of 31 wells on these leases. In the case of one lease (Vermilion Block 247), the field is developed with 13 wells capable of producing but cannot be sold because the pipeline company is awaiting the issuance of a certificate from the Federal Power Commission enabling it to begin construction of the pipeline. In the case of the other three leases, exploratory drilling to date has not established the presence of sufficient reserves of hydrocarbons to justify economic development at this time. Additional exploratory drilling is planned, either to establish additional reserves or to condemn the leases.

In addition to the nine leases included in Mr. Donkin's tabulation of "producible shut-in" leases at the beginning of 1973, and included on the attached Appendix A, there are six additional Shell leases that are currently classified as "producible shut-in". These six additional leases, together with an explanation of their status of development, are also included on the attached Appendix A.

Initial wells in the offshore areas are normally drilled from movable drilling structures to establish the presence or absence of hydrocarbons and to guide in the optimum location and number of drainage points which, in turn, dictate what platforms, if any, are to be constructed and where they shall be located. If the production is natural gas, a pipeline must be constructed to take the product to shore. These operations require some substantial capital outlays and prolonged periods of time, especially if the pipeline construction is delayed because of FPC proceedings. Where the reserves discovered are small in quantity, marketing of these reserves may have to await discovery of additional reserves in the area which will economically justify the construction of a pipeline.

The danger of relying on innuendoes and inferences drawn from bare statistics by individuals unfamiliar with the industry, such as the "producing shut-in" lease lists of the U.S.G.S., should be apparent. We hope that the facts set forth in this letter, together with the itemized discussion of the Shell leases referred to by Mr. Donkin attached hereto as Appendix A, will set the record straight on this issue.

We request that this letter be included in the record, in order that the record may be complete on this issue.

Very truly yours,

G. C. BANKSTON,
Vice President, Production.

Attachment.

APPENDIX A

SHELL-OWNED OFFSHORE FEDERAL LEASES CLASSIFIED PRODUCIBLE SHUT-IN AS OF JANUARY 1973 IN DONKIN REPORT

Tract	Acquisition date	Date classified shut-in by BLM	Current status	Remarks
1. East Cameron 266-----	March 1962-----	Apr. 22, 1965	Surrendered-----	This lease was returned to the United States on June 1, 1973, after repeated attempts to establish commercial production failed. A total of 5 wells were drilled by Shell. Although some oil and gas was encountered, the estimated recoverable reserves are so small that the expense of further development cannot be economically justified.
2. Vermilion 246-----	do-----	do-----	Sold-----	A total of 6 wells were drilled by Shell on this lease. 2 of the wells indicated the presence of small quantities of gas. The amount of gas recoverable was estimated to be insufficient to economically justify further development. Tenneco Oil Co. operates the adjacent lease known as the Vermilion block 245 field. Shell could not economically justify further the development of block 246 in isolation, so we sold the block to Tenneco who could justify partial development of the block as an extension to its Vermilion block 245 field.
3. Vermilion 258-----	do-----	do-----	Producing-----	Shell drilled a total of 6 wells on this block. Oil and gas shows were encountered in a number of wells but the estimated recoverable reserves would not justify further development in isolation; however, we were able to farm out a part of this tract to Exxon, the operator of the adjacent block. In 1972, Exxon established oil and gas production by a well drilled in block 258. Production from this well commenced in June 1973.
4. South Marsh Island 71-----	do-----	Oct. 27, 1966	Surrendered-----	A total of 3 wells were drilled by Shell on this tract before the lease was returned to the United States on May 1, 1973. Although 1 of the wells had an indication of some gas and another a show of oil, further attempts to establish commercial production could not be economically justified.

APPENDIX A—Continued

SHELL-OWNED OFFSHORE FEDERAL LEASES CLASSIFIED PRODUCIBLE SHUT-IN AS OF JANUARY 1973 IN DONKIN REPORT—Continued

Tract	Acquisition date	Date classified shut-in by BLM	Current status	Remarks
5. South Timbalier 160	March 1962	Oct. 27, 1966	Producible shut-in	To date, a total of 10 wells have been drilled by Shell on this lease. 1 of the wells drilled in 1966 proved the presence of gas; however, based on the indicated volume of recoverable reserves, we have been unable to economically justify further development of this tract by itself. We are attempting to interest operators of adjacent blocks in a farmout or outright purchase of this tract.
6. Eugene Island 331	December 1970	Nov. 1, 1972	Producing	In September 1972, this block was placed in the "producible shut-in" category by the USGS as a result of test information obtained from Shell's A-5 well. Oil and gas production from this block began in October 1972. The gas produced is transported temporarily along with the oil through a Shell owned and operated oil pipeline to Shell's platform, located in Eugene Island block 259. At this point, the gas is delivered to Michigan Wisconsin Pipeline Co. for the account of Natural Gas Pipeline Co. of America, who has purchased the Eugene Island block 331 gas from Shell for transportation and resale in interstate commerce. NGPL recently applied for FPC authority to install a permanent pipeline to transport this gas and is awaiting FPC certification.
7. Vermilion 247	do	Jan. 2, 1973	Producible shut-in	Gas to be produced from Vermilion Block 247 was dedicated to an interstate gas sale contract with Natural Gas Pipeline Co. of America, as purchaser, by contract dated Apr. 1, 1972 (superseded by contract dated Aug. 1, 1973). An application to gas to NGPL was submitted by Shell to the Federal Power Commission on or about Aug. 29, 1972. NGPL, together with Trunkline Gas Co., has applied for authority to construct a new pipeline (Stingray Pipeline Co.) to gather gas in the western offshore Louisiana area. Vermilion Block 247 gas will be transported through the Stingray pipeline. Shell's application to sell gas from Vermilion Block 247 has been consolidated with the Stingray FPC application and is awaiting a decision by the FPC. Authority to sell gas to NGPL has not been received, nor has the FPC approved Stingray's application to construct a new pipeline; therefore, Vermilion Block 247 gas is shut-in while awaiting receipt of the required FPC authorities. This field is currently developed with 13 wells capable of production and 3 dry holes.
8. and 9. Vermilion 339 and 340.	do	do	do	A total of 5 wells were drilled within 1 yr following the acquisition of these leases. Although all of the wells have encountered some indications of oil or gas, we have not established sufficient reserves to justify economic development at this time. Additional drilling is anticipated in order that we may either justify further development of these leases or condemn the prospects in the event of insufficient reserves.

OTHER SHELL-OWNED OFFSHORE FEDERAL LEASES CURRENTLY CLASSIFIED "PRODUCIBLE SHUT-IN," BUT NOT INCLUDED IN TESTIMONY OF GEORGE L. DONKIN

Tract	Acquisition date	Date classified shut-in by BLM	Current status	Remarks
A. Eugene Island 192.....	December 1955.....	Jan. 11, 1960	Producible shut-in.	To date, 3 wells have been drilled on this block, with 2 of the wells being dry holes, while the 3d well was completed as a shut-in gas well. Limited reserves developed by the 1 shut-in well cannot justify the equipment necessary to produce and the pipeline necessary to transport the small amount of gas presently available. We have hoped that other drilling in the area would establish gas production on adjacent tracts and thus afford an economic outlet for this limited gas reserve. To date, this has failed to occur, and we are, therefore, faced with the alternative of further drilling, or return of this tract to the United States.
B. South Pass 70.....	June 1967.....	May 20, 1969	do.....	Shell drilled 14 development wells from the "A" platform located on this tract. Hurricane Camille severely damaged the structure in 1969, subsequently necessitating the cessation of production for reasons of structural safety associated with the damaged platform. As a result of detailed engineering studies and testing of the Gulf floor, Shell has concluded that a new slide-resistant platform can safely be installed. At present, a 40-slot platform is under fabrication and installation is targeted for mid-1974, and development drilling will be reinitiated shortly thereafter.
C. and D. Main Pass 253	June 1967.....	July 1, 1972	do.....	These 2 tracks were obtained by a joint Chevron-Shell bid. The 2 companies have drilled 8 wells and the 9th well is currently drilling. A joint operating agreement has been executed by Shell and Chevron, with Chevron as operator. Limited oil reserves were found in 1972 and these blocks are still being evaluated by the continuing drilling program.
E. South Timbalier 72.....	March 1962.....	Jan. 11, 1973	do.....	Primary term of this lease expired May 31, 1967. The lease was held by production until October 1972, when the last producing well was shut-in (for safety reasons) to allow a workover of another well connected to the same fixed platform. The workover failed and the last producing well could not be returned to production. Because Shell intends to workover other wells on this lease, a 1-year producible shut-in status was granted by the USGS until Mar. 12, 1974. By that time, it is our plan to have the lease again on production.

OTHER SHELL-OWNED OFFSHORE FEDERAL LEASES CURRENTLY CLASSIFIED "PRODUCIBLE SHUT-IN," BUT
NOT INCLUDED IN TESTIMONY OF GEORGE L. DONKIN—Continued

Tract	Acquisition date	Date classified shut-in by BLM	Current status	Remarks
F. West Cameron 565....	December 1970....	Feb. 1, 1973	Producible shut-in.	Gas to be produced from West Cameron Block 565 was dedicated to an interstate gas sale with Natural Gas Pipeline Co. of America, as purchaser, by contract dated July 1, 1972 (superseded by contract dated Aug. 1, 1973). An application to sell gas to NGPL was submitted by Shell to the Federal Power Commission on or about Aug. 29, 1972. NGPL, together with Trunkline Gas Co., has applied for authority to construct a new pipeline (Stingray Pipeline Co.) to gather gas in the western offshore Louisiana area. Gas to be produced from West Cameron Block 565 will be transported through the Stingray pipeline. Shell's application to sell gas from the West Cameron Block 565 acreage has been consolidated with the Stingray FPC application and is awaiting a decision by the FPC. Authority to sell gas to NGPL has not been received, nor has the FPC approved Stingray's application to construct a new pipeline; therefore, West Cameron Block 565 gas is shut-in while awaiting receipt of the required FPC authorities.

CONTINENTAL OIL CO.,
Houston, Tex., December 13, 1973.

Hon. PHILIP A. HART,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: On October 18, 1973, George L. Donkin, Industry Economics, Division of Economic Studies, Federal Power Commission, appeared at your request to present testimony in the joint hearing before the Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary of the United States Senate. Mr. Donkin's testimony focused upon Federal Offshore leases in the Southern Louisiana and Texas areas which were classified as "producing shut-in" by the U.S. Geological Survey as of January, 1973.

In his testimony, Mr. Donkin asserts that there is a substantial nonproductive petroleum potential which certain major oil companies are secretly and collectively withholding from the market in the face of the energy crisis. Continental Oil Company desires to respond to Mr. Donkin's statements and respectfully requests that the attached statement be included in the record of these hearings. We believe this statement will clarify substantially the issue of leases classified as "producing shut-in" and will refute the ill-founded conclusions of Mr. Donkin, at least as these may apply to Continental Oil Company.

Very truly yours,

J. E. FINLEY,
Executive Vice President.

Attachment.

RESPONSE OF CONTINENTAL OIL CO. TO THE TESTIMONY OF GEORGE L. DONKIN

Continental Oil Company's response to the testimony of George L. Donkin is directed primarily at his charge that there is a substantial nonproductive petroleum potential which is being held by certain major oil companies by reason of the Federal offshore leases pertaining thereto having been classified by the U.S. Geological Survey as "producing shut-in." It will be the purpose of this response

to show that, as pertaining to Continental, the evidence he presented does not support this conclusion nor the implication that production of the petroleum reserves, regardless of size or other circumstances, underlying such leases would be a profitable venture except that certain major oil companies are withholding these reserves from the market in anticipation of increased prices.

In his testimony, Mr. Donkin submitted data designated as Tables 1 and 2 which show that Continental owned a net working interest in 26,708 acres spread among 18 Federal offshore leases which were classified as "producing shut-in" by the U.S. Geological Survey as of January, 1973. Continental has assembled the information with regard to all of its leases in this category, as of December, 1973, for the benefit of this Subcommittee. A lease-by-lease analysis of the acquisitions and drilling history, the suspensions granted, the reasons therefor, and the current status of the lease is contained in Appendix "A", attached hereto. Reference to these analyses supports the arguments presented in this statement. Appendix "A" can be summarized as follows:

Of the 18 leases in which Continental owns an interest, which were classified "producing shut-in" in January, 1973, four are now on production, markets having ultimately been secured. Four other leases have been "farmed out"¹ to others for further exploratory drilling. Production from another lease is simply pending the installation of platform production equipment and Federal Power Commission pipeline certificate authority to the gas purchaser. Although Continental has made repeated attempts to farmout several of the remaining nine leases, such efforts have not been successful, and at the present time the potential reserves these leases are estimated to represent, when coupled with the development cost thereof and the regulated gas prices they would bring, are insufficient to consider further expenditure as economically feasible. Since January of this year, U.S. Bureau of Land Management data will show the addition of eight more leases classified as "producing shut-in," in which Continental recently acquired an interest and upon which drilling has discovered some yet unquantified potential hydrocarbons which warrant the drilling still in progress.

The foregoing current summary demonstrates the ongoing process of acquiring leases, conducting exploratory drilling, developing reserves discovered through further drilling, and installing facilities necessary to market such reserves. In this respect, it should be pointed out that contrary to Mr. Donkin's assertion, the classification of a lease as "producing shut-in" may not necessarily be for the purpose of extending the producer's leasehold rights beyond the primary term of five years. Leases may be so classified during the primary term; two of the 18 Continental leases listed in the data submitted by Mr. Donkin are examples. Moreover, the granting of such classification does not require subterfuge on the part of the producer, as Mr. Donkin's testimony seems to imply. The producer must simply submit the technical information required by OCS Order No. 4 issued on August 28, 1969, a copy of which is attached as Appendix "B" as further information and clarification for the Subcommittee. As one refers to such order, it is worthy to note that since a production test, as contemplated by the requirement 1 in the order, is both wasteful and impractical, most offshore leases are qualified as "producing shut-in" by the submission of well log and core analysis data as listed in requirement 2 of the order. It is also important to note that a suspension of production from a lease may be sought from the U.S. Geological Survey, whether during or beyond the primary term of the lease, from time to time and for various and possible multiple reasons, thereby permitting actual production to be suspended pending, for example, (1) additional geophysical work to determine whether or not further exploratory drilling is suggested, (2) development drilling, (3) search of a market for the production, (4) installation of permanent production facilities, (5) receipt of necessary regulatory and governmental authorizations on the part of both the producer and purchaser, or (6) installation of the necessary pipeline facilities to enable the production to be transported to market. Most often, however, the reason leases are classified as "producing shut-in" is due to the fact that the potential reserves are limited to such extent that the producer cannot economically justify, incrementally, the additional investment of platforms, drilling, producing equipment, pipelines, etc., necessary to develop and produce the reserves. This reason dominates the 18 Continental leases listed by Mr. Donkin and should be contrasted with the implication in his testimony that substantial reserves are being withheld by producers, by overuse of the "producing shut-in" classification, in anticipation of higher prices.

¹ The "farmout" of an interest in a lease is a common practice within the petroleum exploration industry. Under a farmout agreement the interest owner in the lease agrees to assign a portion of such interest to the farmoutee in consideration of the performance of certain drilling obligations by the farmoutee.

Mr. Donkin has referred to the term "paying quantities" which may require explanation. "Paying quantities" as used in OCS Order No. 4 and as used by various witnesses before the Subcommittee, including Mr. Donkin, implies quantities of oil or gas reserves which would be "profitable" to produce. The use of such lease terminology here is an extension to the offshore area of a term traditionally applied in the onshore area and accepted throughout the industry. It implies that the well has been deemed to be productive of hydrocarbons and that the only remaining effort and expense is to connect the well to a purchaser in order to get gas and/or oil to market. This is an oversimplification, particularly in the offshore area. The production of hydrocarbons from an offshore well classified as "producing shut-in" may require the additional investment of millions of dollars in development drilling, permanent platform and production equipment, and pipeline facilities. As so often is the case, such expenditure by the producer for the recovery of limited potential gas reserves would be uneconomical when viewed in the light of the gas prices permitted under Federal Power Commission regulation. Furthermore, the Federal Power Commission may not consider it to be in the public interest to authorize a substantial investment in pipeline facilities to connect such limited gas reserves to the purchaser's existing system, which may be located some distance away. In this respect, members of the Federal Power Commission Staff have become increasingly more reluctant to support a gas purchaser's filing for new pipeline certification unless they are satisfied the gas reserves and projected deliveries therefrom are sufficient to warrant such investment, which is ultimately borne by the gas consumer. Consequently, the extension of the lease term by virtue of suspended production may provide the time necessary for the development of additional reserves to justify a pipeline to that area.

Another explanation is necessary regarding the false concept that a lease bonus is a measure of productivity or reserves potential. Mr. Donkin made the point that petroleum companies had spent some \$971 million in bonuses in acquiring the 185 Federal leases listed in his evidence as "producing shut-in", and he seems to imply that the magnitude of the acreage and the bonus is some measure of the reserves underlying such "nonproducing acres" which these companies are "sitting on." He chooses to ignore, or is uninformed as to the risks involved in petroleum exploration. Further, bidding on leases is based solely on subsurface information obtained from the surface, prior to the time any drilling has taken place. Consequently, the amount of bonus paid is no measure of the amounts of oil or gas reserves subsequently revealed by the drilling of the wells now classified as "producing shut-in".

Also, Mr. Donkin overlooks the amount of bonus money forfeited when other offshore leases not considered worth keeping were surrendered to the Interior Department. He also overlooks the substantial amount of money already spent in drilling on these leases. Although Mr. Donkin recognizes that the "producing shut-in" classification is assigned to a lease "upon which *at least one well* has been drilled that is capable of producing oil or gas", a quick glance at the data applicable to Continental's leases will reveal a multiplicity of wells, representing the attempts of Continental and others to find sufficient reserves under these leases to justify additional expenditures for development and production.

Among the 9 remaining leases in which Continental owns an interest and which remain classified as "producing shut-in" pending further development, Continental estimates that these leases contain limited potential reserves which can hardly be considered as "substantial".

Continental is exploring all avenues by which hydrocarbon accumulations contained under "producing shut-in" leases may be developed. Continental has repeatedly attempted to farmout an interest in many of these leases. Failure to do so exemplifies the limited reserve and profit potential these leases represent, not only to Continental but also to prospective farmoutees. Also, Continental contemplates seeking special relief from applicable area ceiling rates established by the Federal Power Commission so that the better prospects of these accumulations may yet have another chance for development.

In summary, it is Continental's concern that altogether too much weight may have been given to Mr. Donkin's testimony despite his apparent unfamiliarity with the business of finding, developing, and producing oil and gas in the real world of economics. This statement and the attached documentation pertaining to Continental's offshore leases should amply demonstrate the fact that the classification of a lease as "producing shut-in" may result from circumstances beyond the control of the lessee. It should also be clear that an entity intending to remain engaged in business of exploring for hydrocarbons will undoubtedly have a continuous inventory of leases so classified in the ongoing process of lease acquisition followed by exploratory drilling, development of potentially profitable reserves, and production, with economic evaluation being applied at each succeeding step.

Continental in the normal process of conducting their business will continue to actively pursue all possibilities of developing or causing to be developed all leases on which wells are designated as "producing shut-in". We categorically deny that any wells in which Continental owns an interest are so designated for any reason other than those stated herein. The foregoing summary information and data submitted herewith show that Continental has not intentionally and secretly withheld substantial hydrocarbon reserves from the market during the emergence of the energy crisis but, instead, Continental has aggressively pursued all means by which any potential reserves underlying Continental leases could be proved up, developed, and produced with the current economic and regulatory framework.

APPENDIX A

EAST CAMERON BLOCK 33 S/2 AND NW/4

OCS-G 2127, 3,750 ACRES

Acquired 12-1-71: Continental Oil Company, 33 $\frac{1}{3}\%$; Getty Oil Company, 33 $\frac{1}{3}\%$; and Cities Service Oil Company, 33 $\frac{1}{3}\%$.

Bonus \$15,700,875; Rental \$10/Acre; 5-year term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 12/1/76.

No. A-1 Completed 3-9-72, T.D. 12,724', Waiting on producing equipment.

No. A-2 Completed 9-27-73, T.D. 12,130', Waiting on producing equipment.

No. A-3 Completed 10-24-72, T.D. 12,106', Waiting on producing equipment.

No. A-4 Completed 2-2-73, T.D. 13,624', Waiting on producing equipment.

No. A-5 Completed 3-8-73, T.D. 12,300', Waiting on producing equipment.

No. A-6 Completed 10-25-73, T.D. 11,897', Waiting on producing equipment.

No. A-7 Completed 5-3-73, T.D. 12,372', Waiting on producing equipment.

No. A-8 Completed 10-10-73, T.D. 12,642', Waiting on producing equipment.

No. A-9 Completed 5-20-73, T.D. 12,582', Waiting on producing equipment.

No. A-10 P&A 7-25-73, T.D. 12,587'.

Remarks: As soon as gas line and all producing equipment is installed, this lease will be producing.

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

SHIP SHOAL BLOCK 94 N/2 SE/4 AND 2/2 NE/4

OCS-G 1983, 998 ACRES

Acquired 9-1-70: Continental Oil Company, 33 $\frac{1}{3}\%$; Atlantic Richfield Company, 33 $\frac{1}{3}\%$; and Cities Service Oil Company, 33 $\frac{1}{3}\%$.

Bonus \$3,318,000; Rental \$10/Acre; 5-year term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 9-1-75.

No. A-1 Completed 8-24-72, T.D. 15,076', Producing.

No. A-2 P&A 7-4-71, T.D. 16,047'.

No. A-3 Completed 11-16-71, T.D. 14,096', Producing.

No. A-4 Completed 2-11-72, T.D. 14,075', Producing.

No. A-5 Completed 8-11-72, T.D. 16,764', Producing.

No. A-6 Completed 12-25-72, T.D. 14,350', Producing.

U.S.G.S. letter 8-24-71: "Well No. A-1, an oil well capable of producing oil in paying quantities."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

SOUTH TIMBALIER BLOCK 148 W/2

OCS-G 1898, 2,500 ACRES

Acquired 3-1-69: Continental Oil Company, 50% and Cities Service Oil Company, 50%.

Bonus \$2,561,111; Rental \$10/Acre; 5-year term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 3-1-74.

No. 1 (Now A-1) Completed 9-16-69, T.D. 13,139'.

No. 2 (Now A-2) Completed 11-4-69, T.D. 12,960'.

U.S.G.S. letter 11-19-69: "Well No. 1 completed as a temporary abandoned shut-in gas well."

This lease has five producing gas wells.

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

MAIN PASS BLOCK 288

OCS-G 1665, 4,561 ACRES

Acquired 7-1-67: Continental Oil Company, 33½%; Cities Service Oil Company, 33½%; and Tenneco Oil Company, 33½%.

Bonus \$602,026; Rental \$3/Acre; 5-Year Term; ½ Royalty.

Original 5-year term expiration date 6-30-72.

No. 1 P&A 7-31-68, T.D. 5,714'.

No. 2 P&A 8-12-68, T.D. 5,479'.

No. 3 P&A 4-14-69, T.D. 5,878'.

No. 4 P&A 4-28-69, T.D. 6,002'.

No. 5 P&A 5-15-69, T.D. 5,717'.

No. 6 P&A 2-7-72, T.D. 6,779'.

No. 7 Shut-in Well 6-2-72, T.D. 4,500'.

U.S.G.S. Letter June, 1972: "Lease is producible by virtue of Well No. 7. Pay minimum royalty of \$13,683."

Suspension of Production granted through 6-30-73.¹

¹ Incomplete report made from summary information. Letters not available at time of writing.

Suspension of Production granted through 6-30-74.

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

MAIN PASS BLOCK 145

OCS-G 1635, 4994.55 ACRES

Acquired 7-1-67: Continental Oil Company, 50% and Tenneco Oil Company, 50%.

Bonus \$6,614,782; Rental \$3/Acre; 5-Year Term; ½ Royalty.

Original 5-year term expiration date 6-30-72.

No. 1 P&A 8-11-67, T.D. 5,455'.

No. 2 P&A 8-23-67, T.D. 7,676'.

No. 3 P&A 11-12-67, T.D. 7,662'.

No. 4 P&A 11-27-67, T.D. 9,047'.

No. 5 P&A 6-24-68, T.D. 8,661'.

No. 6 P&A 7-4-68, T.D. 7,840'.

No. 7 P&A 1-12-72, T.D. 5,576'.

No. 8 Shut-in Well 3-3-72, T.D. 2,991'.

No. 9 P&A 2-21-72, T.D. 3,305'.

U.S.G.S. letter March, 1972: "Lease is producible by virtue of No. 8 Well. Pay \$14,985 minimum royalty."

Suspension of production granted through 6-30-73. No marketing facility.¹

¹ Incomplete report made from summary information. Letters not available at time of writing.

Suspension through 6-30-74. No marketing facility.

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

GRAND ISLE BLOCK 90

OCS-G 1586, 5,000 ACRES

Acquired 7-1-67: Continental Oil Company, Atlantic Richfield Company, and Getty Oil Company, CAG has 1/12 O.R.R.; Chevron Oil Company, 100%.

Bonus \$20,905,400; \$3/Acre; 5-Year Term; ½ Royalty.

Original 5-year term expiration date 7-1-72.

No. 1 P&A 9-8-67, T.D. 16,999'.

No. 2 P&A 10-23-67, T.D. 13,001'.

No. 3 P&A 6-25-70, T.D. 15,689'.

No. 4 P&A 2-2-71, T.D. 18,000'.

No. 5 P&A 10-27-73, T.D. 13,584'.

U.S.G.S. letter 5-30-72: "Well No. 3 shut-in gas well. CAGC farmed out all its working interest to Chevron on 11-1-73."

GRAND ISLE BLOCK 45

OCS-G 1582, 5,000 ACRES

Acquired 7-1-67: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; and Cities Service Oil Company, 25%. Bonus \$1,704,080; Rental \$3/Acre; 5-Year Term; ½ Royalty.

Original 5-Year term expiration date 7-1-72.

No. 1 P&A 9-4-71, T.D. 16,485'.

No. 2 P&A 5-23-72, T.D. 12,527'.

U.S.G.S. letter 6-13-72: "Well No. 2 capable of producing hydrocarbons in paying quantities."

U.S.G.S. letter 6-22-73: All "shut-in" wells have been permanently plugged in order to clear the ocean floor, in accordance with OCS Order No. 3.

GRAND ISLE BLOCK 32 N/2

OCS-G 1580, 2,500 ACRES

Acquired 7-1-67: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; and Cities Service Oil Company, 25%.

Bonus \$803,565; Rental \$3/Acre; 5-year term; ½ Royalty.

Original 5-year term expiration date 7-1-72.

No. 1 TA 1-16-72, T. D. 14,500'.

No. 2 P&A 2-18-73, T. D. 12,774'.

U.S.G.S. letter 11-3-72: "Well No. W-4D determined to be capable of producing oil in paying quantities." Remarks: Eight wells have been drilled from "W" Platform. Lease has been producing since November, 1972.

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

SOUTH TIMBALIER BLOCK 178

OCS-G 1564, 5,000 ACRES

Acquired 7-1-67: Continental Oil Company, 11.250%; Atlantic Richfield Company, 11.250%; Getty Oil Company, 11.250%; Cities Service Oil Company, 11.250%; SONAT Exploration (Operator), 21.395%; Midwest Oil, 13.750%; Samedan Offshore, 5.500%; Southland Royalty, 5.500%; Newmont Oil Company, 4.565%; Offshore Company, 4.290%.

Bonus \$7,055,350; Rental \$3/Acre; 5-year term; ½ Royalty.

Original 5-year term expiration date 6-30-72.

No. 1 P&A 12-25-67, T.D. 15,840'.

No. 2 Abandoned location.

No. 3 (SONAT, Operator) Shut-in well 8-13-72, T.D. 15,570'.

U.S.G.S. letter 8-4-72: "No. 3 well shut-in. Lease is producible. Pay minimum royalty of \$15,000."

U.S.G.S. letter 1972 (to SONAT): "Suspension of production through 6-30-74."

U.S.G.S. letter 9-28-73 (to SONAT): "Suspension of production through 6-30-74. No marketing facilities."

Note: SONAT is operator and responsible for operations on the lease. This report was made from information available in Continental's file.

SOUTH TIMBALIER BLOCK 86 S/2

OCS-G 1555, 2,500 ACRES

Acquired 7-1-67: Continental Oil Company, 50% and Cities Service Oil Company, 50%.

Bonus \$1,201,015; Rental \$3/Acre; 5-Year Term; ½ Royalty.

Original 5-year term expiration date 6-30-72.

No. 1 Shut-in gas well, 11-24-68. T.D. 17,248'.

U.S.G.S. letter 3-11-69: "Well No. 1 a shut-in gas well. Lease declared producible. Pay minimum royalty of \$7,500."

U.S.G.S. letter 5-24-72: "Suspension of production granted through 6-30-73. No marketing facilities."

U.S.G.S. letter 6-13-72: "Suspension through 6-30-74. No marketing facilities."

SHIP SHOAL BLOCK 316

OCS-G 1541, 5,000 ACRES

Acquired 7-1-67: Continental Oil Company, 10%; Atlantic Richfield Company, 10%; Getty Oil Company, 10%; Cities Service Oil Company, 10%; Chevron (Operator), 30%; and Bass Production, 30%.

Bonus \$152,020; Rental \$3/Acre; 5-Year Term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 6-30-72.

No. 1 (Chevron Operator) completed as producible well 5-26-72.

U.S.G.S. letter 6-19-72: "No. 1 Well capable of production. Lease is producible. Pay minimum royalty of \$15,000."

Note: This incomplete report made from Continental's files. Chevron has been responsible for securing suspension of production, as Operator of the lease.

EAST CAMERON BLOCK 77

OCS-G 1476, 5,000 ACRES

Acquired 12-1-66: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; and Cities Service Oil Company, 25%.

Bonus \$407,951; Rental \$5/Acre; 5-Year Term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 11-30-71.

No. A-5 (first well) completed 4-3-72 as shut-in gas well, T.D. 9,953'.

U.S.G.S. letter 2-9-72: "No. A-5 capable of production. Lease is producible; pay minimum royalty of \$25,000."

U.S.G.S. letter 2-25-72: "No. A-5 a shut-in gas well. Suspension of production through 11-30-72. Rig must be brought back to platform to complete for production."

U.S.G.S. letter 12-14-72: "Suspension through 5-31-73, to allow modification of producing facilities so well can be completed."

December, 1972: This lease was put on production.

EAST CAMERON BLOCK 65

OCS-G 1473, 5,000 ACRES

Acquired 12-1-66: Continental Oil Company, 100%.

Bonus \$4,283,401; Rental \$5/Acre; 5-Year Term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 11-30-71.

No. 1 P&A 6-6-67, T.D. 10,862'.

No. 2 Shut-in gas well 6-13-69, T.D. 11, 100'.

U.S.G.S. letter 10-3-69: "No. 2 is a shut-in gas well. Lease is producible. Pay \$25,000 minimum royalty."

U.S.G.S. letter 11-4-71: "Suspension of production granted through 11-30-72. No marketing facility."

U.S.G.S. letter 12-13-72: "Suspension through 11-30-73. No marketing facility."

U.S.G.S. letter 11-30-73: "Suspension through 11-30-74. Lessee plans to drill as soon as drilling equipment can be programmed."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

WEST CAMERON BLOCK 177

OCS-G 1471, 5,000 ACRES

Acquired 12-1-66: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; and Cities Service Oil Company, 25%.

Bonus \$3,253,036; Rental \$5/Acre; 5-Year term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 11-30-71.

No. 1 P&A 12-29-68, T.D. 10,761'.

No. 2 Shut-in gas well 9-29-71, T.D. 10,726'.

U.S.G.S. letter 11-4-71: "No. 2 a shut-in gas well. Lease is producible. Pay \$25,000 minimum royalty. Suspension of production granted through 11-30-72. No marketing facility."

U.S.G.S. letter 12-13-72: "Suspension through 11-30-73, to allow review for drilling to establish sufficient reserves to attract purchaser."

Continental letter 11-15-73: "Development of presently indicated reserves not economically feasible without increase in price. Drilling on adjoining leases may furnish information causing earlier drilling on W.C. 177."

U.S.G.S. letter dated 11-29-73: "Suspension through 11-30-74. No marketing facility. Lessee must make diligent effort to develop."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

SOUTH TIMBALIER BLOCK 52

OCS-G 1241, 3,772 ACRES

Acquired 5-1-62: As to 294.70 Acres: Continental Oil Company, 12.5%; Atlantic Richfield Company, 12.5%; Getty Oil Company, 12.5%; Cities Service Oil Company, 12.5%; and Chevron Oil Company, 50.0%. As to 3,477.48 Acres: Chevron Oil Company, 100.0%.

Bonus \$161,000; Rental \$3/Acre; 5-Year Term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 4-30-67.

Wells drilled by Chevron as Operator:

No. 1 Shut-in oil well 1-8-67, T.D. 15,003'.

No. 2 P&A 6-20-67, T.D. 8,020' (original hole) and 7,905' in sidetracked hole.

No. 3 Completed 7-26-72, T.D. 14,495'. Status?

No. 4 Completed 12-30-72, T.D. 14,900'. Status?

No. 5 Completed 3-7-73, T.D. 13,679'. Status?

No. 6 Completed 4-17-73, T.D. 11,355'. Status?

No. 7 Completed 6-28-73, T.D. 13,346'. Status?

No. 8 Completed 8-3-73, T.D. 13,571'. Status?

Note: Humble (now Exxon) drilled four wells on this block under a prior lease.

U.S.G.S. letter 1-19-67 (to Chevron): "No. 1 Well a shut-in oil well. Lease is producible. Pay \$11,319 minimum royalty."

U.S.G.S. letter 3-6-67 (to Chevron): "Suspension through 4-30-68. No marketing facility."

U.S.G.S. letter 4-18-68 (to Chevron): "Suspension through 4-30-69. No marketing facility."

Chevron to U.S.G.S. letter 4-16-69: "Suspension of Production requested to review subsurface data to minimize drilling risks."

Chevron to U.S.G.S. letter 4-14-70: "Suspension of Production requested to further evaluate data from vicinity."

U.S.G.S. letter to Chevron 4-27-71: "Suspension through 4-30-72. Chevron reports a well to be drilled when a rig is available."

Note: This incomplete report is made from Continental's files. Chevron, as Operator, is responsible for operations on the lease.

VERMILION BLOCK 189 S/2 & 194 N/2

OCS-G 1132, 5,000 ACRES

Acquired 5-1-62: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; Cities Service Oil Company, 25%.

Bonus \$463,500; Rental \$3/Acre; 5-year Term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 4-30-67.

No. 1 Dry and Abandoned 8-5-65, T.D. 13,232'.

No. 2 Shut-in gas well 8-27-65, T.D. 10,080'.

U.S.G.S. letter 9-24-65: "No. 2 is a shut-in gas well. Lease declared producible."

U.S.G.S. letter 3-30-67: "Suspension of production through 4-30-68. No facility to market gas. Pay minimum royalty \$15,000."

U.S.G.S. letter 3-28-69: "Suspension through 4-30-70. No marketing facility."

U.S.G.S. letter 3-25-70: "Suspension through 4-30-71. No marketing facility."

U.S.G.S. letter 3-24-71: "Suspension through 4-30-72. No marketing facility."

Prior to further suspension request, advise plans for marketing."

Continental letter 3-24-72: "Gas companies will not lay line for limited reserves. Still attempting to secure facility."

U.S.G.S. letter 4-30-72: "Suspension through 4-30-73, but before 10-31-72, file plan of development."

Continental letter 10-23-72: "Hoping to drill if gas prices increase. Trying to farm out or drill joint well."

U.S.G.S. letter 11-9-72: "10-23-72 letter accepted."

Continental letter 4-26-73: "Trying to attract pipeline by a 'package' averaging gas sales price for limited reserves leases and more prolific leases."

U.S.G.S. letter 4-27-73: "Suspension through 4-30-74, to finalize 'package' deal and get FPC approval. Report by 10-31-73."

Continental letter 11-5-73: "Package" failed. Trying to farm out by 4-30-64."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

GRAND ISLE BLOCK 73

OCS-G-1058, 4,540 ACRES

Acquired 6-1-62 (by Superior):¹ Continental Oil Company, 41.666%; Getty Oil Company, 16.667%; Offshore Company, 4.000%; Southern Natural Gas, 9.500%; Superior Oil Company, 16.000%; Hanna Mining Company, 2.000%; TransOcean Oil, 9.500%; and The Acasa Investment Co., .667%.

Bonus \$272,393; Rental \$3/Acre; 5-Year Term; $\frac{1}{6}$ Royalty.

Original 5-Year term expiration date 5-31-67.

No. 1 P&A 9-28-66, T.D. 14,382'.

No. 2 P&A 12-12-66, T.D. 16,101'.

No. 3 Shut-in gas well 6-24-67, T.D. 14,033'.

U.S.G.S. letter 6-27-67: "No. 3 a shut-in gas well. Lease declared producible. Pay \$13,620 minimum royalty. Suspension of production through 5-31-68. No marketing facility."

U.S.G.S. letter 6-3-68: "Suspension through 5-31-69. No marketing facility."

U.S.G.S. letter 4-2-69: "Suspension through 5-31-70. No marketing facility."

U.S.G.S. letter 4-21-70: "Suspension through 5-31-71. No marketing facility."

U.S.G.S. letter 4-21-71: "Suspension through 5-31-72. No marketing facility."

U.S.G.S. letter 4-5-72: "Suspension through 5-31-73. No marketing facility."

Submit plan of development by 11-30-72."

Continental letter 11-28-72: "Unable so far to secure purchaser to lay line for limited reserves. May be able to drill by 5-31-73 if gas prices improve. Trying to make farmout deal for well."

U.S.G.S. letter 12-13-72: "11-28-72 letter accepted."

Continental letter 5-10-73: "Trying to attract pipeline by a 'package' averaging gas sales price for limited reserves leases and more productive leases."

U.S.G.S. letter 5-29-73: "Suspension through 5-31-74, to finalize 'package' deal, and secure FPC approval. Report by 11-30-73."

Continental Letter dated 11-5-73: "Package failed. Hope to farm out adjoining blocks (63 & 72) so that drilling thereon prior to 5-30-74 will perhaps influence activity on G.I. 73."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

GRAND ISLE BLOCK 72

OCS-G 1057, 5,000 ACRES

Acquired 5-1-62: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; and Cities Service Oil Company, 25%.

Bonus \$639,000; Rental \$3/Acre; 5-Year Term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 4-30-67.

No. 1 P&A 11-2-62, T.D. 12,630'.

No. 2 P&A 1-4-63, T.D. 13,099'.

No. 3 P&A 10-10-63, T.D. 6,301'.

No. 4 P&A 11-16-63, T.D. 13,809'.

No. 5 Shut-in gas well 1-7-66, T.D. 14,644'.

No. 6 P&A 10-7-71, T.D. 13,286'.

No. 7 P&A 12-9-71, T.D. 14,647'.

U.S.G.S. letter 2-2-66: "No. 5 is a shut-in gas well—lease is producible."

U.S.G.S. letter 3-31-67: "Suspension of production through 4-40-68. No marketing facility. Pay \$15,000 minimum royalty."

U.S.G.S. letter 4-11-68: "Suspension through 4-30-69. No marketing facility."

U.S.G.S. letter 3-28-69: "Suspension through 4-30-70. No marketing facility."

U.S.G.S. letter 3-25-70: "Suspension through 4-30-71. No marketing facility."

¹ Continental acquired interest in 1966 and 1967.

U.S.G.S. letter 3-24-71: "Suspension through 4-30-72. Prior to future request for suspension, advise marketing plans."

Continental letter 4-21-72: "Difficult to secure purchaser to lay line because of limited reserves. Actively seeking purchaser."

U.S.G.S. letter 4-27-72: "Suspension through 4-30-73. Additional time needed to get lease on production."

Continental letter 4-26-73: "Trying to attract pipeline by a "package" averaging gas sales price for limited reserves leases and more prolific leases."

U.S.G.S. letter 4-27-73: "Suspension through 4-30-74, to finalize "package" deal and get FPC approval. Report by 10-31-73."

Continental letter 11-5-73: "Package failed. Negotiating a farmout for a deep well."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

SHIP SHOAL BLOCK 134 E/2 OCS-G 1512, 2,500 ACRES

Acquired 7-1-67: Continental Oil Company, 15%; Atlantic Richfield Company, 50%; Getty Oil Company, 15%; Cities Service Oil Company, 15%; and Exxon Company, U.S.A., 40%.

Bonus \$752,750; Rental \$3/Acre; 5-year term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 7-1-72.

No. 1 P&A 1-20-72, T.D. 6500', Shut-in gas well.

No. 2 P&A 9-13-73, T.D. 6500'.

U.S.G.S. letter 3-3-72: "Well No. 1 capable of producing hydrocarbons in paying quantities."

U.S.G.S. letter 5-3-73: "Suspension of production through 6-30-74."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

EUGENE ISLAND BLOCK 307 E/2

OCS-G 2110, 2,500 ACRES

Acquired 2-1-71: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; and Cities Service Oil Company, 25%.

Bonus \$2,205,425; Rental \$3/Acre; 5-year term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 2-1-76.

No. 1 P&A 2-20-72, T.D. 6331', Shut-in gas well.

No. 2 P&A 3-7-72, T.D. 3469'.

U.S.G.S. letter 3-22-72: "Well No. 1 capable of producing hydrocarbons in paying quantities. Lease is scheduled for further drilling."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

WEST CAMERON BLOCK 535

OCS-G 2227, 5,000 ACRES

Acquired 2-1-73: Continental Oil Company, 33 $\frac{1}{3}\%$; Getty Oil Company, 33 $\frac{1}{3}\%$; and Cities Service Oil Company, 33 $\frac{1}{3}\%$.

Bonus \$23,733,387; Rental \$3/Acre; 5-Year Term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 2-1-78.

No. 1 P&A 5-24-73, T.D. 12,500', Shut-in gas well

No. 2 P&A 7-2-73, T.D. 9,232'.

No. 3 P&A 6-12-73, T.D. 8,226', possible producer.

U.S.G.S. letter 5-21-73: "No. 1 well is a shut-in gas well—Lease declared producible."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

SOUTH MARSH ISLAND BLOCK 176

OCS-G 2292, 5,000 ACRES

Acquired 2-1-73: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; and Cities Service Oil Company, 25%.

Bonus \$3,120,751; Rental \$3/Acre; 5-year term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 2-1-78.

No. 1 P&A 9-15-73, T.D. 3883', Shut-in oil and gas well.

No. 2 P&A 10-30-73, T.D. 4432'.

U.S.G.S. letter 9-13-73: "Well No. 1 is a shut-in oil and gas well—Lease declared producible."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

SOUTH MARSH ISLAND BLOCK 261

OCS-G 2306, 4,999 ACRES

Acquired 2-1-73: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; and Cities Service Oil Company, 25%. Bonus \$40,742,092; Rental \$3/Acre; 5-year Term; $\frac{1}{6}$ Royalty.

Original 5-Year term expiration date 2-1-78.

No. 1 P&A 3-20-73, T.D. 8,626'.

No. 2 Temporarily Abandoned 4-4-73, T.D. 10,000'.

No. 3 Temporarily Abandoned 6-23-73, T.D. 7,497' (STII).

No. 4 P&A 5-17-73, T.D. 9,789'.

No. 5 P&A 6-30-73, T.D. 3,500'.

No. 6 P&A 8-14-73, T.D. 6,938'.

No. 7 P&A 7-21-73, T.D. 6,868'.

No. 8 P&A 8-30-73, T.D. 7,863'.

Remarks: A platform has been installed, pipeline being installed, development drilling now in progress.

SOUTH MARSH ISLAND BLOCK 288

OCS-G 2316, 3,169 ACRES

Acquired 2-1-73: Continental Oil Company, 50% and Chevron Oil Company, 50%.

Bonus \$7,711,778; Rental \$3/Acre; 5-year term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 2-1-78.

No. 1 TA 11-18-73, T.D. 16,013', possible producer.

Awaiting Operator's (Chevron) completion and development plans.

EUGENE ISLAND BLOCK 361

OCS-G 2324, 5,000 ACRES

Acquired 2-1-73: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; and Cities Service Oil Company, 25%.

Bonus \$15,319,806; Rental \$3/Acre; 5-year term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 2-1-78.

No. 1 P&A 11-24-73, T.D. 7505', Shut-in gas well.

No. 2 P&A 8-18-73, T.D. 4249', Shut-in gas well.

U.S.G.S. letter 9-13-73: "Well No. 2 is a shut-in gas well. Lease declared producible."

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with OCS Order No. 3.

EAST CAMERON BLOCK 328

OCS-G 2200 5,000 ACRES

Acquired 2-1-73: Continental Oil Company, 25%; Atlantic Richfield Company, 25%; Getty Oil Company, 25%; and Cities Service Oil Company, 25%.

Bonus \$30,624,354; Rental \$3/Acre; 5-Year Term; $\frac{1}{6}$ Royalty.

Original 5-year term expiration date 1-31-78.

No. 1 Shut-in gas well 8-13-73, T.D. 4,780'.

No. 2 P&A 8-24-73, T.D. 4,894'.

No. 3 P&A 9-11-73, T.D. 5,100'.

No. 4 P&A 11-2-73, T.D. 2,542'.

No. 5 P&A 11-12-73, T.D. 2,504'.

Data has been submitted to U.S.G.S. to show No. 1 Well as producible, and to qualify the lease as producible, subject to payment of minimum royalty. Verbal approval has been received from the U.S.G.S., letter will follow.

All "shut-in" wells have been permanently plugged, in order to clear the ocean floor, in accordance with O.C.S. Order No. 3.

[OCS Order No. 3, Aug. 28, 1969]

U.S. DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION, BRANCH OF OIL AND GAS OPERATIONS, GULF COAST REGION

NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES IN THE OUTER CONTINENTAL SHELF, GULF COAST REGION

Plugging and abandonment of wells

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.15. The operator shall comply with the following minimum plugging and abandonment procedures which have general application to all wells drilled for oil and gas. Plugging and abandonment operations must not be commenced prior to obtaining approval from an authorized representative of the Geological Survey. Oral approvals shall be in accordance with 30 CFR 250.13. Any departures from the requirements specified in this Order must be approved pursuant to 30 CFR 250.12(b).

1. *Permanent abandonment.*—A. *Isolation in uncased hole.*—In uncased portions of wells, cement plugs shall be spaced to extend 100 feet below the bottom to 100 feet above the top of any oil, gas, and fresh water zones so as to isolate them in the strata in which they are found and to prevent them from escaping into other strata.

B. *Isolation of open hole.*—Where there is open hole (uncased and open into the casing string above) below the casing, a cement plug shall be placed in the deepest casing string by (1) or (2) below, or in the event lost circulation conditions exist or are anticipated, the plug may be placed in accordance with (3) below:

(1) A cement plug placed by displacement method so as to extend a minimum of 100 feet above and 100 feet below the casing shoe.

(2) A cement retainer with effective back pressure control set not less than 50 feet, nor more than 100 feet, above the casing shoe with a cement plug calculated to extend at least 100 feet below the casing shoe and 50 feet above the retainer.

(3) A permanent type bridge plug set within 150 feet above the casing shoe with 50 feet of cement on top of the bridge plug. This plug shall be tested prior to placing subsequent plugs.

C. *Plugging or isolating perforated intervals.*—A cement plug shall be placed opposite all open perforations (perforations not squeezed with cement) extending a minimum of 100 feet above and 100 feet below the perforated interval or down to a casing plug whichever is less. In lieu of the cement plug, a bridge plug set at a maximum of 150 feet above the open perforations with 50 feet of cement on top may be used provided the perforations are isolated from the hole below.

D. *Plugging of casing stubs.*—If casing is cut and recovered, a cement plug 200 feet in length shall be placed to extend 100 feet above and 100 feet below the stub. A retainer may be used in setting the required plug.

E. *Plugging of annular space.*—No annular space that extends to the Gulf floor shall be left open to drilled hole below. If this condition exists, the annulus shall be plugged with cement.

F. *Surface plug requirement.*—A cement plug of at least 150 feet, with the top of the plug 150 feet or less below the Gulf floor, shall be placed in the smallest string of casing which extends to the surface.

G. *Testing of plugs.*—The setting and location of the first plug below the top 150-foot plug, will be verified by either (1) placing a minimum pipe weight of 15,000 pounds on the plug, or (2) testing with a minimum pump pressure of 1,000 psig with no more than a 10 percent pressure drop during a 15-minute period.

H. *Mud.*—Each of the respective intervals of the hole between the various plugs shall be filled with mud fluid of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling such interval.

1. *Clearance of location.*—All casing and piling shall be severed and removed to at least 15 feet below the Gulf floor and the location shall be dragged to clear the well site of any obstructions.

2. *Temporary abandonments.*—Any drilling well which is to be temporarily abandoned shall be mudded and cemented as required for permanent abandonment except for requirements F and I of paragraph 1 above. When casing extends above the Gulf floor, a mechanical bridge plug (retrieveable or permanent) shall be set in the casing between 15 and 200 feet below the Gulf floor.

ROBERT F. EVANS, *Supervisor.*

Approved: August 28, 1969.

RUSSELL G. WAYLAND,
Chief, Conservation Division.

APPENDIX B

[OCS Order No. 4, Aug. 28, 1969]

U.S. DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION, BRANCH OF OIL AND GAS OPERATIONS, GULF COAST REGION

NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES IN THE OUTER CONTINENTAL SHELF, GULF COAST REGION

Suspensions and determination of well producibility

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.12(d)(1). An OCS lease provides for extension beyond its primary term for as long as oil or gas may be produced from the lease in paying quantities. An OCS lease may be maintained beyond the primary term, in the absence of actual production, when a suspension of operations or production, or both, has been approved. An application for suspension of production for an initial period should be submitted prior to the expiration of the term of a lease. The supervisor may approve a suspension of production provided at least one well has been drilled on the lease and determined to be capable of being produced in paying quantities. The temporary or permanent abandonment of a well will not preclude approval of a suspension of production as provided in 30 CFR 250.12(d)(1). Any departures from the requirements specified in this Order must be approved pursuant to 30 CFR 250.12(b).

A. well may be determined to be capable of producing in paying quantities when the requirements of either 1 or 2 below have been met.

1. *Production tests.*—A. *Oil wells.*—A production test of at least two hours duration, following stabilization, is required.

B. *Gas Wells.*—A deliverable test of at least two hours duration, following stabilization, or a four-point, back-pressure test is required.

C. *Witnessing and Results.*—All tests must be witnessed by an authorized representative of the Geological Survey. Test data accompanied by operator's affidavit, or third-party test data, may be accepted in lieu of a witnessed test provided prior approval is obtained from the appropriate district office. The results of the witnessed or accepted test must justify a determination that the well is capable of producing in paying quantities.

2. *Production capability.*—Information for determining producibility should be submitted in time to permit one week for evaluation and determination. In cases of urgency, determinations may be conveyed orally. The following may be considered as acceptable evidence that a well is capable of producing in paying quantities:

A. An induction-electric log of the well, clearly showing a minimum of 15 feet of producible sand in one section which does not include any interval which appears to be water saturated. All of the section counted as producible must exhibit the following properties:

(1) Electrical spontaneous potential exceeding 20 negative millivolts beyond the shale base line. If mud conditions prevent a 20 negative millivolt reading beyond the shale base line, a gamma ray log deflection of at least 70 percent of the maximum gamma ray deflection in the nearest clean water bearing sand may be substituted.

(2) A minimum true resistivity ratio of the producible section to the nearest clean water sand of at least 5:1, provided the producible section exhibits a minimum resistivity of 2.0 ohm-meters.

(3) A porosity log indicating porosity in the producible section.

B. Sidewall cores and core analysis which indicates that the section is producible.

C. A wire line formation test or evidence that an attempt was made to obtain such test. The test results must indicate that the section is producible.

D. All logs run must support other evidence that the section is producible.

ROBERT F. EVANS, *Supervisor.*

Approved: August 28, 1969.

RUSSELL G. WAYLAND,
Chief, Conservation Division.

TEXACO, INC.,
Houston, Tex., January 10, 1974.

Reproducing shut-in Federal offshore leases.

Senator PHILIP A. HART,

*Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary,
U.S. Senate, Washington, D.C.*

DEAR SENATOR HART: Mr. George L. Donkin, an economist with the Federal Power Commission, presented testimony on October 18, 1973, in the hearing before the Subcommittees on Antitrust and Monopoly and Administrative Practice and

Procedure of the Senate Committee on the Judiciary. In describing offshore leases classified as "Producing Shut-In," Mr. Donkin stated that these are leases on which "wells have been drilled and which have been shown to be capable of production, but from which the petroleum industry is not producing." Another economist from the Commission, John W. Wilson, testified on that same date that Mr. Donkin's study casts doubt upon the reliability of the Commission's uncommitted gas reserves study.

Texaco is mentioned by Mr. Donkin as holding substantial shut-in acreage in offshore Texas and Louisiana. Two prime factors are pertinent to an understanding of the figures cited by Mr. Donkin in his testimony and in the tables of data submitted as attachments to his testimony.

Firstly, Department of Interior regulations provide for extension of a lease beyond its primary term if a well capable of producing in paying quantities is drilled and completed thereon and the producing capabilities of such well are acknowledged and verified by the USGS as a result of rigorously defined production tests set out in OCS Order No. 4. Under such circumstances, an OCS lease may be maintained beyond the primary term in the absence of actual production.

Secondly, use of the term "paying quantities" may be misunderstood by Mr. Donkin. In the context at hand, the term "paying quantities" does not necessarily mean that the reserves discovered by a well are sufficient to economically justify the expenditure of several million dollars for erection of production platforms and construction of pipeline facilities required before the well could begin producing continuously. If a well has been determined capable of producing in paying quantities and is classified "Producing Shut-In," this indicates the USGS has determined that additional time is required for further evaluation of the exploratory potential of the lease acreage involved. Such further evaluation will be influenced by factors such as the volume of additional seismic data which may be required and the complexity of its analysis, the continuing acquisition of drilling information from the surrounding area and the advancement of exploratory and drilling technologies, as well as the success of subsequent drilling on acreage covered by the particular lease.

If additional exploratory drilling on the Producing Shut-In acreage is successful in locating other hydrocarbon deposits that supplement the original quantities, the lease holder may be able to justify further expenditures for production or pipeline facilities. If, on the other hand, after exhausting all exploration avenues, the development of additional reserves appears fruitless, the lease will be considered for surrender.

Of the 34 leases held by Texaco which Mr. Donkin listed in his testimony as "Producing Shut-In", 11 in Louisiana and 4 in Texas are, in fact, committed to interstate pipelines under gas sales contracts as shown in the attached Table I. The combined volume of gas currently being produced from or allocated under production units to 14 of these 15 committed leases—which is helping now to meet the nation's energy needs—amount to approximately 146,600,000 cubic feet per day. These 15 committed leases, 5 of which are still within their primary lease term, represent 44 per cent of the 34 leases which Mr. Donkin mistakenly characterized as "idle acres" held by Texaco in the offshore federal domain. The contracts governing the sale of gas from these 15 committed leases are filed in the public records of the Federal Power Commission, and all except one were of record prior to Mr. Donkin's study.

The initial exploratory drilling effort on the balance of Texaco's Producing Shut-In leases, referred to in Mr. Donkin's testimony, has thus far discovered deposits which are too small to attract an offer to purchase from an interstate gas pipeline. It must be remembered, however, that the USGS has determined that extensions of these leases were warranted in view of existing circumstances. Texaco is continuing to seek all possible exploration avenues to establish additional reserves and make additional development feasible. Under these circumstances, Mr. Donkin's characterization of this acreage as "idle" is misleading.

I trust that this information will prove useful.

Yours very truly,

R. E. WRIGHT.

Attachment.

TABLE I.—OFFSHORE FEDERAL LEASES PRODUCING AND COMMITTED TO INTERSTATE PIPELINES BUT LISTED AS SHUT-IN BY MR. DONKIN AS OF JANUARY 1973

OCS serial No.	Texaco net acres	Date of lease sale	Area and block No.	Bonus paid by Texaco (thousands)	Name of purchaser	FPC certificate		Docket No.	Date of initial delivery under construction
						Contract date	Date filed		
SOUTH LOUISIANA									
965	5,000	Mar. 13, 1962	East Cameron 24	\$157	Sea Robin	Apr. 25, 1972	May 8, 1972	June 1, 1972	C172-714
2,939 ³	1,858	Dec. 15, 1970	East Cameron 25	2,053	Tennessee Gas	Oct. 6, 1972	Nov. 8, 1972	Mar. 8, 1973	C173-335
2,040 ³	625	do	East Cameron 255	703	do	do	do	May 30, 1973	
2,046 ³	1,830	do	East Cameron 271	11,411	do	do	do	C173-335	
2,047 ³	901	do	East Cameron 272	5,705	do	do	do	C173-335	
779	2,500	Feb. 24, 1960	South Marsh Island 32	63	United Fuel	Sept. 2, 1970	Sept. 8, 1970	June 1, 1971 ¹	C171-223
785	2,500	do	South Marsh Island 34	69	do	do	do	Aug. 20, 1971	
572	2,500	July 12, 1955	Eugene Island 193	133	Transco	Dec. 8, 1969	Jan. 9, 1970	June 9, 1970	C170-622
575	1,250	do	Eugene Island 20	1,625	do	do	do	C170-662	
578	1,250	do	Eugene Island 215	500	do	do	do	Jan. 14, 1971	
2,118 ³	2,500	Dec. 15, 1970	Eugene Island 338	3,376	Tennessee Gas	July 5, 1973	Aug. 6, 1973	(c) C174-82	Nov. 2, 1973
Total (11 leases)	22,714			25,795					
TEXAS									
1,812	1,440	May 21, 1968	High Island 71	2,776	Natural Gas (80 percent)	Feb. 29, 1972	Apr. 21, 1972	May 23, 1973	C172-677
1,815	1,440	do	High Island 72	2,016	Natural Gas (20 percent)	Sept. 20, 1972	Oct. 2, 1972	do	C173-231
1,818	5,760	do	High Island 87	3,041					
1,819	5,760	do	High Island 88	8,277					
Total (4 leases)	14,400			16,110					

¹ Temporary certificate.² Permanent certificate.³ Within primary lease term.⁴ Committed to gas sales contract but at present not producing or receiving allocation of gas produc-tion.

STATEMENT OF JOHN N. NASSIKAS, CHAIRMAN, FEDERAL POWER COMMISSION

Senator KENNEDY. The next witness is John N. Nassikas, Chairman, Federal Power Commission. Mr. Nassikas, do you swear the evidence you are about to give is the truth, the whole truth, and nothing but the truth?

Mr. NASSIKAS. I do.

Senator KENNEDY. Mr. Nassikas, you have been kind enough to come before this committee this morning and to cooperate with us in permitting these other witnesses to testify here. We have always tried to have the spokesman, either for the administration or the independent agency to speak first, so we wanted to express our appreciation for your courtesy. I notice Commissioner Springer is here as well, this morning. I had the good opportunity to serve with him in the Congress of the United States and to sit across the table from him on many different occasions on the development of legislation. I am one who has admired his service both as a Congressman and now on the Commission. I want the record to show that he is here this morning as well.

Mr. NASSIKAS. May I say, Mr. Chairman, Vice Chairman Moody is also here, as well as Commissioner Albert B. Brooke. The entire Commission is here.

Senator KENNEDY. Very fine, you are all here this morning.

Mr. NASSIKAS. And a few members of the staff are here as well.

Senator KENNEDY. Very well. We have had a few of them up here in the last couple of days.

Mr. NASSIKAS. I understand, sir.

Senator KENNEDY. If I could, Mr. Chairman, I want to review very briefly some of the things that have come to my attention during the period of these last 3 days of hearings, things that I hope to be able to develop in greater detail.

Perhaps you would like to comment on these observations. It would appear to me that during the years since 1967, there have been three surveys on natural gas reserves. We have heard from economists as well as people that have been in the Power Commission, about the structure of those various surveys and how deficient the structure of the surveys themselves were.

We have been told there was information included in the composites that is incomplete or erroneous or misleading—some even believe it is false. We have heard from others that the usefulness, even of these surveys in trying to make some important determinations as to what the real energy crisis is, is extremely limited.

And finally, we have been told that materials which are relevant to this kind of a survey have been destroyed or returned to the companies and that the companies themselves have been the ones that have established the conditions for making available certain information to the Commission. There has been virtually no verification or auditing of the materials that have really been provided; only some spot checking which would be grossly inadequate in terms of auditing has been done.

Furthermore, it is upon these reports that national energy policy is being developed, both within house, your own Power Commission,

and within the legislative branch—and I imagine in the executive branch as well. There are other sources of information, but obviously yours is the principal source for much of the development.

Possibly we have seen a history of document destruction at the Commission as a routine procedure, again, dictated by the industry and—I would be interested in your comments on this—apparently even approved by the general counsel.

And further, we have had statements accusing those within the Commission of backbiting, mistrust and lack of cooperation within the offices of the Commission. These are indeed serious allegations and charges.

I am also hopeful you will comment on whether you are able to get the reason why these various surveys have not been as complete, thorough, and penetrating as I believe many of the witnesses believe that they could have been and should have been in the development of information relating to natural gas reserves. I would be interested to know if you think, as Mr. Chumbris mentioned to an earlier witness, that we need an additional legislative action. I would like to know whether you feel that we do and, if so, whether you are prepared to request the Congress and the administration to permit you to gather this information.

It would appear to me that you have that authority. Certainly you have that responsibility under the 1938 act. But I want to hear from you on this issue.

Finally, I would like to hear your view about your independence, how you view your independence of the administration. You have been established as the other regulatory agency, to be an arm of the Congress. We have, in the recent dialogue of the times, I think, that part of the great debate that is taking place today on whether Congress can assert itself and whether it can compete in the development of information on many of the important matters facing the country.

We have established certain committees that inform OMB about their budget requests, but which even leave the development of budget requests up to the Congress itself. The Office of Technology Assessment—a bipartisan joint committee between the House and the Senate in which I have the opportunity to serve—hopefully will be able to provide important information and develop important technological information and make it available to the various committees. Under the legislative appropriation, the Congress decides what the budget will be and the reform of it will be, rather than the OMB and the White House drying up the budget. How do you view this? Would you feel more comfortable if you were completely independent of that kind of process in the development of your own agency?

I mention these as some of the allegations and charges that have been made. I find many of them with a very great degree of persuasiveness. We want to give you sort of an opportunity as the cleanup batter to respond to these charges to the extent that you so desire.

After whatever comment you would like to make, I would like to go through them in some detail.

Mr. NASSIKAS. Perhaps, Mr. Chairman, we ought to approach your series of important issues and allegations, in reverse order.

In other words, start with the budgetary concept first; that is, the independence of our regulatory agency from the Office of Manage-

ment and Budget. Overall, how independent are we? How independent am I as a Chairman of this agency from the administration?

In the first place, I testified 2 years ago, I believe, before a committee of the Senate in favor of the unified budget concept. At the same that I testified in favor of it, I indicated that as far as I was concerned, while that was the preferable way to probably handle the budgetary resources of the Nation, that I would certainly have no objection to being released entirely from review by the administration. The Joint Committee on Atomic Energy, I understand, reviews the budget of the Atomic Energy Commission. They receive a copy of the AEC budget at the same time the administration does. I believe that system is a workable method of budgetary review.

Overall, I believe that as Chairman of the FPC and, not only by nature of philosophy or of personality, but also by virtue of my principles, that I am independent of the administration, and I would welcome any comments from the administration concerning that independence. Normally, all I submit to the administration before I testify, and it is usually the day before, is an information copy of what I am going to state. And once in a while, I will receive a statement that my statement is in accord with the administration's program. Normally, there is no commentary. So much for that.

In other words, to conclude on that, if Congress believed that it was in the public interest to make the Federal Power Commission and other similar regulatory agencies totally independent insofar as the budget is concerned, I certainly would have no objection. I will say that most of my budgetary requests have been honored, although they have been shaved. They also have been cut back some by the Congress as well as by the Office of Management and Budget. I have submitted information to two committees as to precisely what was our budgetary request and how much it was reduced and what was granted. I have done that.

Now, let us take some of the other aspects of your——

Senator KENNEDY. Before finishing on that, do you feel the independence from the White House applies to personnel in relation to the policy, as well?

Mr. NASSIKAS. You mean as to appointments to the Commission?

Senator KENNEDY. Right.

Mr. NASSIKAS. Now, I believe that appointments——

Senator KENNEDY. Or Commission staff?

Mr. NASSIKAS [continuing]. We have no influence by the White House in the appointment of Commission staff, except as to schedule C positions for which there is a political clearance which is a——

Senator KENNEDY. Well, that is not an insignificant one.

Mr. NASSIKAS. Well, again any recommendation that I have made for a schedule C, I believe this is accurate, has been accepted by the White House. I believe that there has been no exception to that.

Second, as to appointment of Commissioners, I do believe that should be the President's prerogative, subject to confirmation by the Senate; I think that should continue.

Do you want me to continue?

Senator KENNEDY. Yes.

Mr. NASSIKAS. I will turn to some of the other questions which you have asked such as the reserves reports. Certainly any study that is made by the Federal Power Commission could be improved. I will be the first to say it. Certainly there are deficiencies in our reserves study. I would like to point out, however, that when I became Chairman of the Commission on August 1, 1969, I was really surprised that there was not available to the Commission staff and to myself as Chairman, a study, and a continuing study, of the natural gas reserves in the United States that would be available and deliverable to market; also a study of what potential reserves were and what the economic perimeters and the geological and engineering periphery might be of that kind of an evaluation.

There were some studies in our pipeline regulation (form 15) which indicate the commitments to the major interstate pipelines of gas reserves. This was an important study, and of course, it was started long before I became Chairman. But, there was no overall study of gas reserves. There were no studies of uncommitted gas reserves that I know of. There were no studies that I could put my hands on, including anything by the Office of Economics, or the Bureau of Natural Gas, or the Office of Accounting and Finance as to reserves studies of the nature that we subsequently undertook.

In the first budget that I presented in October of 1969 to OMB and which was subsequently approved by the Congress in December 1970, I had a request for an appropriation for a national gas reserves study which culminated in the National Gas Survey. The survey itself is virtually complete. It is being consolidated now; we should be able to print it and publish it, I hope, in the next 2 or 3 months.

The National Gas Reserves Study, which is independent, prepared by our staff consultants, has now been completed. This was issued in May of 1973 and revised in September 1973.

I believe that while this study is not the total answer, and while it does not include all fields in the United States, it is a significant contribution to reserves evaluation and analysis of our resource base. It is the first study of its kind that any agency has ever undertaken.

Without getting into the detail of it, because the first 22 pages sets it forth, this study was conducted under the supervision of our staff. However, a large part of it, the Outer Continental Shelf portion, was undertaken by the U.S. Geological Survey of the Department of the Interior. A sampling method was used covering about 58 percent of the proved reserves in the United States, including major fields and smaller fields. There has been testimony both critical of the sample and also in support of the sample, filed with the Senate Antitrust and Monopoly Subcommittee. The critical view is that of Mr. Halverson. The rebuttal to Mr. Halverson, which I believe is quite conclusive, was prepared by Paul Root, who is one of the top experts in the United States on reserves studies. He is an engineer, an academician with practical experience. I have brought him with me in case, as this hearing develops, he can be helpful to you in responding to your questions.

The staff of the Federal Power Commission who participated in the study are competent. They are able and dedicated, and they attempted to serve the public interest. I believe they did, and I think they serve it well.

On that point, I think that I should state here, at the outset, that this morning I did happen to hear John Wilson, who is leaving the employment of the Federal Power Commission of his own momentum, and Mr. Wilson seemed to be at least, from what I heard, quite critical of Frank Allen. I do not mind criticism, but I think when criticism relates to competence, or relates to integrity, and if it is not well taken, it ought to be straightened out.

So, Mr. Allen is now here. He did not hear what Mr. Wilson said, but I would request your indulgence, Chairman Kennedy, to permit—not today because your time is limited—but to permit Mr. Allen to file a supplementary response, once the record is obtained here, to Mr. Wilson's vigorous assertions.

Senator KENNEDY. Of course, we will provide that opportunity.

Mr. NASSIKAS. Thank you.

Senator KENNEDY. Mr. Allen made some comments yesterday that reflected on Mr. Wilson's experience, but obviously we will include that as part of the record in the appropriate place and time.

Mr. NASSIKAS. As to the Office of Economics, is it ostracized? Is the Office of Economics a unit we do not utilize? Is the Office of Economics a unit which is not supported by me as Chairman of the Commission?

The Office of Economics, I will state categorically, is supported by its chairman. I have personally interviewed most economists that have been retained or employed by the Commission; I have almost without exception—I cannot think of an exception but there may be—endorsed the recommendations made by Haskell Wald as chief of the Office of Economics for employment of assistants.

When Mr. Wilson was employed, I interviewed Mr. Wilson. I think he is a gentleman of great ability, outstanding competence, even though I do not agree with some of his conclusions and findings. I am very sorry that Mr. Wilson is leaving the Commission.

Senator KENNEDY. Have you asked him to stay?

Mr. NASSIKAS. Pardon me?

Senator KENNEDY. Have you asked him to stay?

Mr. NASSIKAS. I have indicated to him that he would be welcome to stay, if he would. Mr. Wilson believes that his destiny is better suited to the congressional branch than the Federal Power Commission. I am constrained to agree with him.

[General laughter.]

Senator KENNEDY. It is not such a bad ambition.

Mr. NASSIKAS. Also, it should be noted that an economist and a very fine gentlemen—served as a Commissioner for about 1½ years, Commissioner Pinkney Walker.

Commissioner Walker was appointed to the Federal Power Commission, and I recommended it; it does not mean that my recommendations are the ones that are adopted by the President in making his nominations to the Commission, but I have been given the opportunity to interview, to review, and to make my recommendation, plus or minus, with respect to any candidate that is considered for the Federal Power Commission.

Well, with respect to Commissioner Walker, I am the one I believe who made a controlling recommendation on that appointment. Why? Because I thought that the Federal Power Commission as an economic

regulatory agency should have a qualified economist serving in a decisionmaking capacity and not simply in an advisory capacity.

Also, from the standpoint of utilizing the Office of Economics, they participated extensively in the National Gas Reserves Study. They are participating in our National Power Survey, also, on the technical advisory committees as well as task forces. The economists have been granted the opportunity to express their independent views.

I will give you one example, there are many, but I will give you one. Mr. Schwartz expressed a desire as a member of the Supply-Technical Advisory Committee Task Force—Regulation and Legislation of the Gas Survey—to present an independent statement, an independent view that conflicted diametrically with most members of that task force who were of a mind that we should have deregulation as a method of resource allocation. I authorized him—no questions whatsoever—to simply present his independent views, which he did along with somebody named David Calfe, who was a member of the Nader group and also another gentleman whom I believe works for the Resources Defense Council.

In our proceedings at the Federal Power Commission, which are largely handled by the Office of General Counsel in conjunction with the operating bureaus, that is, the Bureau of Natural Gas and the Bureau of Power, it appeared to me rather soon after I became Chairman that there was a real deficiency in testimony of economists as part of the written record upon which the Federal Power Commission could rely in evaluating our ultimate decision.

We were receiving advice from economists on a staff level, but not receiving the benefit of their testimony in deciding cases. And many of our decided cases go up to the courts, so we have to develop the records in our proceedings. The economists very seldom testified in cases, and even now, except for John Wilson on the gas side and Bob Uhler on the electric side, our proceedings are pretty barren of economists' testimony. I intend to improve that situation. I intend to have their participation in the process that we are involved in rather than their devoting large segments of their time to other nonassigned responsibilities, even though I recognize their importance.

What are these nonassigned responsibilities? Assisting committees of Congress, like this one—not this particular one, but the Antitrust and Monopoly Subcommittee was very happy to have John Wilson and David Schwartz testify. John Wilson has spent a great deal of time in reviewing and collating testimony to assist that committee. I have not participated in this or given any instructions to them as to what they should do. They have exercised their own independent judgments. With respect to the Interior Committee, particularly on Senate Joint Resolution 45, I have not computed the man-years but there are several man-years involved in our efforts there including assignments by our economists and by other members of our staff. Warren Morrison, one of our top economists, spent a great deal of time in evaluating for that committee about 20 basic energy forecasts in order to determine the validity of their assumptions.

As to the point that there is internal bickering at the Federal Power Commission between the economists and the other bureaus, I would suggest that while there may be some bickering as between individuals, I would hope that the economists will join the Federal Power Com-

mission in our endeavors to serve the public interest as assigned to us by the Congress. Once a decision has been made by the Commission, its review should be by the process that the Congress has assigned for the review of that decision, that is, judicially, under the terms of the Administrative Procedure Act. There is staff input in all our decisions at our weekly Commission meetings, our New England town meeting of the air, which is what I term them. We have 40 or 50 members of our staff normally at those meetings. The Bureau of Natural Gas, represented by Mr. Allen and his group, and Mr. Joyee before him, and Mr. Forquer and his group of attorneys, and Mike Drennan, Office of Accounting and Finance, and Dick Hill, Office of Environmental Quality, as well as Haskell Wald, Office of Economics, all present their views. And I can assure you that there is no unanimity as to views, and that the Commission does not follow or adopt the views of other staff any more than we reject the views of the economists. We make a decision based upon, if it is a written record, of course, on an evaluation of that evidentiary record. If it happens to be a rulemaking, we act on the basis of on the filed comments and on staff evaluation. If it happens to be something that does not involve an evidentiary record, we act based upon staff evaluation and our independent judgment as to what we should do.

So that, I want to emphasize that if the economists believe that they are serving the public interest, then I would think that they should be the first to admit that the rest of the staff of the Federal Power Commission is also serving the public interest, even though there are disagreements.

Senator KENNEDY. Could we begin to go through—

Mr. NASSIKAS. I think, perhaps, I was going to say, you might want to get on to questions.

Senator KENNEDY. Yes, I will get on to specific questions if I could.

Mr. NASSIKAS. I could go on and on. I would rather hear from you.

Senator KENNEDY. Specifically, in your memorandum of June 29, 1973—in the general area on policy on documents, prohibiting document destruction without your authority—you stated that this is a reconfirmation of instructions previously given. Could you relate for us what previous instructions you are referring to?

You are familiar with this?

Mr. NASSIKAS. Yes, I am.

There are actually two memoranda which are involved here. There was one on June 20 that I sent to Captain Vivian and Colonel Hryskanich, who are on the staff of our Office of Administrative Operations. That memorandum states that they were not to destroy any documents whether they involved security or otherwise, without the express approval of either the executive director or myself. Now, the memorandum of June 29, which I do not have immediately before me, refers to reconfirmation of existing orders. The first paragraph reflects the understanding that I had with the executive director, and the understanding that I thought I had with the bureau chiefs, that documents, absent special circumstances, such as an order of the Commission or a case of something of that sort, that are the basis for our reports and evaluations, even if confidential, should not be destroyed. This is what I meant by the first paragraph, which says, reconfirming that situation.

Senator KENNEDY. Well, the reconfirming relates to the June 20 memorandum, is that right?

Mr. NASSIKAS. June 20 was just confirming oral instructions previously given.

Senator KENNEDY. All right. Now, who were those oral instructions with?

Mr. NASSIKAS. I do not want to confuse the record. June 20, 1973, is the memorandum to Mr. Hryskanich and to George Vivian.

Senator KENNEDY. We will make that a part of the record.

[The material referred to follows:]

June 20, 1973

Memorandum to: Peter Hryskanich, Director, Office of Administrative Operations, George B. Vivian, Acting Assistant, Office of Administrative Operations.

From: Chairman.

Subject: Disposition of documents.

This memorandum confirms oral instructions previously given to you by the Executive Director with respect to the disposition of documents accorded confidential treatment. Until further written notice from me, do not destroy any classified document or other document required to be treated as confidential in your safekeeping or delivered to you for destruction except upon my written approval or the written approval of the Executive Director.

JOHN N. NASSIKAS,
Chairman.

Senator KENNEDY. We heard from Mr. Vivian yesterday that he never received any instructions whatsoever until the memorandum came down.

Mr. NASSIKAS. I do not believe that is accurate, because I know that I told Mr. Maxson before that memorandum of June 20—sometime around May 21 or 22—that because of the discovery of the attempted destruction of documents, to kindly instruct all personnel, including Captain Vivian and Colonel Hryskanich, not to destroy anything pending further notice. Now, whether Mr. Maxson gave oral instructions to Captain Vivian prior to May 21 or 22, I do not know. Whatever Mr. Maxson said I would accept.

Senator KENNEDY. Well, should he have?

Mr. NASSIKAS. On destruction of documents?

Senator KENNEDY. Yes.

Mr. NASSIKAS. I do not know whether he should have or not, because I do not know of any instance of destruction except the one that Mr. Vivian related yesterday. I only found out about that sometime in May, that is, about destroying a Commissioner's records where the Commissioner requested destruction of records.

In retrospect, I would say it would have been very nice indeed if we not only had had oral instructions, but a written directive to Captain Vivian stating, do not destroy anything unless you get authority, because of the subsequent events which developed which we know of here. He destroyed documents upon the representation by an employee that they were confidential, as I understand it, and that he was custodian and then presented him a letter from Texaco which set up conditions of some kind about returning them or destroying them. Well, I do not accept that.

Senator KENNEDY. What was your understanding of the procedure prior to your May 22 communications?

Mr. NASSIKAS. Well, it depends on what procedure. But I will specify. I will be specific.

Senator KENNEDY. All right.

Mr. NASSIKAS. We know that in certain of our proceedings which were litigated proceedings, such as AR 69-1, that the record discloses, the destruction of the data that was supplied by producers pursuant to an order of the Commission directing the first study of uncommitted reserves in the south Louisiana area made. The Commission's order is silent as to whether or not the data should be returned to the producers, or whether or not it should be destroyed. It is silent. The proceeding was left to the general counsel and assistant general counsel to handle under the Commission order. I have no recollection in AR 69-1 of being consulted whatsoever, nor do I think that I should have been consulted concerning this, because there is a separation of Commission functions in a litigated case.

So in that case, as Mr. Mattingly has stated, there were ultimately, some records that were supplied by the producers or worksheets that were developed in that case, that were destroyed. That case, by the way, went to the fifth circuit. The Commission decision was affirmed. I do not believe that the issue of destruction was either litigated in briefs before the Commission, nor in briefs before the Circuit Court of Appeals. I also know that the Circuit Court of Appeals made no findings in this respect, and I do not believe that the issue was argued. That case, by the way, on the merits, is probably en route to the U.S. Supreme Court.

Senator KENNEDY. Well, let me ask you, your testimony is, you did not sanction the burning of AR 69-1?

Mr. NASSIKAS. I did not sanction it.

Senator KENNEDY. Okay, did you approve of it?

Mr. NASSIKAS. No.

Senator KENNEDY. When did you find out that the material—

Mr. NASSIKAS. Let me put it this way, Senator Kennedy. If I had been consulted, and I have no recollection of being consulted, but had I been consulted, I believe my answer would have been, kindly retain all records. It is a litigated case. Somebody may want to raise this on a motion, and I would keep it. I would retain it. This is my usual practice. I do not see why I should adopt anything different there. At the same time, our order is silent on it, as I reread it.

Senator KENNEDY. Well, your General Counsel, Mr. Gooch, approved the destruction.

Mr. NASSIKAS. Well, I do not know that he did. There was a memorandum that went, was it to him or to Wakefield?

Senator KENNEDY. Well, he got a copy of it. Gooch got a copy of it.

Mr. NASSIKAS. Well, I do not know whether he approved or whether he did not.

Senator KENNEDY. Well, he knew of it or he should have known of it. It is in—

Mr. NASSIKAS. As I say, I cannot say what Mr. Gooch knew or did not know concerning this.

Senator KENNEDY. Well, when did you find out that the documents had been burned?

Mr. NASSIKAS. In AR 69-1?

Senator KENNEDY. 69-1.

Mr. NASSIKAS. To the best of my recollection, the first time that I discovered that this had happened was in preparing my overall review of destruction of documents at the Federal Power Commission subsequent to the receipt of the May 18 letter on May 21. This is my best recollection of it.

I do not recall in my review of the relevant parts of the transcript on the merits of that case, in preparing my views on the case, I did not author the decision, incidentally, but nevertheless, I am responsible on any decision on which my name appears. But I do not recall in reviewing the record in that case ever finding anything concerning the destruction of any records in 69-1. On the other hand, that record is several thousand pages long. I have dealt with hundreds of cases, and my recollection may be faulty. I do not think so. Usually, I remember quite well.

Senator KENNEDY. Are you familiar with that memorandum to Commissioner O'Connor about the method used to protect confidentiality? And you are familiar with page 2, where it mentions "all confidential information not being returned to companies is destroyed as soon as possible after no longer needed"?

Mr. NASSIKAS. I am familiar with that comment in the letter, and I forwarded that letter to the committee as soon as it was called to my attention by Mr. Maxson, Friday evening about 6:30 last week. We had had a Commission meeting; he called it to my attention. He said that Mr. Albares, in getting ready for the hearing here, had found this memorandum.

I indicated to Mr. Maxson that he should send the memorandum to the committee. Mr. Maxson had a search made, because I was busy, through my own secretaries of our files in my own office. Also, a search was made, I understand, of the files through Commissioner Brooke's secretary of the files in his office Monday, to make certain. I had no recollection of the memorandum.

Senator KENNEDY. Did they find it not in your file?

Mr. NASSIKAS. No, not in my file. But still, I wanted to make certain here that my recollection was not faulty, and so I asked my girls again to check all files in my office to determine whether or not that particular memorandum had been presented to us. There was no record of it. I have no recollection of it. I do not recall discussing it with Commissioner O'Connor. I do not recall the subject matter of the meeting.

Senator KENNEDY. Well now, having viewed it now, having read it now, is your memory revived in any way?

Mr. NASSIKAS. Well, as to whether this is the procedure—

Senator KENNEDY. No, as to whether, you read it. Chances are that you may very well have forgotten completely about it. And then, when you refreshed your recollection, whether you—

Mr. NASSIKAS. Having read it, I have no recollection of the memorandum. As to the substance of it, Senator, it says that over the years, these are the procedures I think it should be recognized that it was written December 1970 and I assume that over the years relates to the decade of the 1960's as well as the time that I was Chairman.

Senator KENNEDY. Well, if those were the procedures, if those were the procedures—

Mr. NASSIKAS. Not since I have been Chairman, sir. There is no general procedure of destroying records since I have been Chairman.

Senator KENNEDY. Well, there has been with regard to the AR-69. What do you call those records? They were destroyed.

Mr. NASSIKAS. 69-1 was—

Senator KENNEDY. Burned in the wastebaskets.

Mr. NASSIKAS. It was taken in a—

Senator KENNEDY. It was a national survey on energy, one of the most important ones, and one which you deserve a great deal of credit for developing.

Mr. NASSIKAS. The destruction was not cleared by the Commission under the Commission order.

Senator KENNEDY. Well, whether it was cleared, it happened within your Commission.

Your testimony is not that you had different procedures. That was the procedure that was followed in that occasion.

Mr. NASSIKAS. In that litigated case, it was followed.

Senator KENNEDY. Well, it did happen while you were Commissioner.

Mr. NASSIKAS. It did happen in that case.

Senator KENNEDY. Well, all right.

What about the 405 file? Have you got the original of that?

Mr. NASSIKAS. In 405—

Senator KENNEDY. Yes.

Mr. NASSIKAS. No.

Senator KENNEDY. No, you have not. Do you know where that 405 file is?

Mr. NASSIKAS. Well, the initial 405—

Senator KENNEDY. The original 405?

Mr. NASSIKAS. No. I conducted two searches, or three.

Senator KENNEDY. All right, so we have not been able to find that?

Mr. NASSIKAS. No; we have not been able to find the worksheets.

Senator KENNEDY. Nobody in the Commission has been able to find the worksheets?

Mr. NASSIKAS. No; the worksheets were all that was retained in that particular 405 file.

Senator KENNEDY. What do you assume has happened to that? What do you think has happened to that?

Mr. NASSIKAS. I can only speculate that if a file is missing. I do not know what has happened to that.

Senator KENNEDY. Now we come to the update.

Mr. NASSIKAS. Yes.

Senator KENNEDY. And that, at least, was attempted to be destroyed, was it not?

Mr. NASSIKAS. Yes, I saved it.

Senator KENNEDY. You saved it?

Mr. NASSIKAS. I saved it from destruction.

Senator KENNEDY. You have three national surveys on gas energy reserves. One of them was burned in the wastepaper basket; the second one has been completely misplaced, cannot be found, no one knows where it is; and the third one was, at least, was attempted to be destroyed. And we have the memoranda here which allegedly was sent to you, according to the copy to all the Commissioners, and we have a second memorandum from Mr. Albares, which was dated June 29, 1970, which talks about destroying individual company records, and

with a copy to the General Counsel, and the public testimony on 69-1, which is on October 1970. On page 4, line 6 says "the notes and calculations were either left with the company or destroyed in the presence of company representatives." So you get three in-house publications which either were sent to you or General Counsel, who I would think should have been aware of the past practice of destroying those records. And now we find someone now who is being threatened with discipline because he has followed at least an understandable procedure, I mean, whether it goes back through the 1960's or whenever it does. I mean, I am not arguing those points, I am arguing the present procedures.

Mr. NASSIKAS. I am not going to judge, Senator Kennedy, Mr. Mangen here. I have deferred judgment on that. Mr. Maxson has not completed his review. When he completes it, Mr. Mangen has a right to appeal if he is not satisfied with the decision.

Now, let me state, if I may, that the first 405 order used the word that the data received shall be treated as confidential. That is the order of November 14, 1970. The understanding of the officers that I have talked to, to Mr. Tourtellotte and to Mr. Williams, is that their worksheets, while not particularly illuminating, still were to be retained. They were to be retained, that was their express understanding under the terms of the Commission order—not destroyed.

Then we come to R-405, the update of September 12, 1972, and the key word there is that the data shall be maintained. What does maintain mean? Well, if we go to the dictionary, it means to keep possession of. Another definition is, not to surrender or relinquish.

In the second 405 proceeding, rather than having three investigative officers—Mr. Brady was the other one, but he is no longer with us—in the first R-405 proceeding, the data was not filed by the producers with the Commission. In the second R-405 proceedings, the data was filed with the Commission, and it was filed, not with investigating officers, but with Mr. Mangen, under express instructions to retain the data at the same time.

I believe that the attempted destruction of the data was in direct violation of our Commission order. However, as I have stated before, I am going to reserve final judgment concerning this matter, in fairness, until this complete proceeding has been concluded.

Senator KENNEDY. Well, you have made a statement on it already. In June, you said, you stated with respect to attempted destructions, "I think it was clear enough. I think it was a violation of our order."

Mr. NASSIKAS. That is right.

Senator KENNEDY. You have already made a judgment on that.

Mr. NASSIKAS. As to the violation of the order, I have.

Senator KENNEDY. Well now, if I could continue, then, and then you respond.

Mr. NASSIKAS. Yes.

Senator KENNEDY. Whatever the order that may be, but Mr. Mangen, who drafted the memoranda you just referred to, was confused about the order about the destruction. And he worked on that memorandum which you referred to. You had the security officer, Mr. Vivian, who did not have any instructions. You had Mr. Joyce, who was the head of the Bureau, who did not have any information, and his testimony is that he did not have any knowledge about any pro-

hibition. And you have Mr. Albares, who is head of this section, who sent out or authored a memorandum which explicitly suggests that one of the procedures was to destroy the material. Now, here you have the head of the security, the head of the Bureau, the head of the section, and the fellow who drafted the order, all of who thought that either they had not received any instructions to the contrary, or thought that destruction of material was routine procedures.

Mr. NASSIKAS. I have not read the testimony yesterday. I would like to look particularly at Mr. Joyce's testimony, because this does not conform with my understanding of Mr. Joyce's understanding of what should be done. So I would like an opportunity to review that record.

Senator KENNEDY. Will you tell us what your understanding of Mr. Joyce's understanding would be. That is hearsay but to with the understanding that Mr. Chumbris will not——

Mr. NASSIKAS. Mr. Joyce understood from any conversation I had with him that this material should not be destroyed, that this material should be retained, maintained in confidential status, retained physically, and should not be destroyed. And Mr. Joyce was very shocked when he discovered that the information that had been supplied by the producers and the worksheets, that there had been an attempted destruction. This is what my understanding is of Mr. Joyce's understanding.

Senator KENNEDY. Well, could you tell us of your own memory when Mr. Joyce got any instructions, oral or written instructions, either from you or from Mr. Maxson, about the destruction or the preservation of confidential documents?

Mr. NASSIKAS. I had no conversation with Mr. Joyce prior to the attempted destruction concerning either preservation or destruction.

Senator KENNEDY. Well, did anyone have conversation to your knowledge?

Mr. NASSIKAS. I do not know. I was not present.

Senator KENNEDY. Did you instruct anyone to have a conversation?

Mr. NASSIKAS. Senator Kennedy, I was not present at the time Mr. Joyce had any conversation with Mr. Maxson or anyone else.

Senator KENNEDY. Did you tell Mr. Maxson to go down and tell Mr. Joyce how to handle confidential materials, or tell any member of your staff to do that?

Mr. NASSIKAS. No. No, I did not tell Mr. Maxson to tell Mr. Joyce. Mr. Joyce fully understood that this confidential material in R-405, which is the subject matter of your question, as I understand it, was to be preserved in the second R-405, and not to be destroyed.

Senator KENNEDY. Well now, here from the staff interview with Mr. Joyce:

Q. Given that understanding, had Mr. Mangen asked you whether it was all right to destroy it, why would you have told him it would not be all right to destroy it?

A. I was not asked that question.

Q. If you were asked that question, would you have told him it was permissible to destroy or impermissible?

A. I do not know. I do not know. I thought about that myself. In light of subsequent events, I do not know.

There is Mr. Joyce. He does not know.

Mr. NASSIKAS. You are quoting from a proceeding before your staff and from a record that we do not have the benefit of and which I have never seen. The rules were set up by Senator Hart's committee for taking these statements and to which I subsequently agreed, although I protested at the outset. So that, that may be what he said there. I am telling you what I know of my knowledge as to what his understanding was from conversations I had with him.

Senator KENNEDY. All right. Well then, let us take open testimony. Let us try some open testimony.

Senator KENNEDY. Well, did you understand that there was also the possibility of destroying, as well as returning, materials?

Mr. JOYCE. I never really had any fixed, had fixed firmly in my mind that the opportunity for destruction was there.

I think, in fairness to both the informal, and then—

There is a question on page 199—I will give you all of these references, Mr. Chairman.

"Did you ever receive"—this is Mr. Bangert—

Did you ever receive written or oral instructions from Mr. Maxson, Chairman Nassikas, or anyone else, that R-405 update material should not be destroyed?

Mr. JOYCE. Well, after, again, the June 29 document would have referred to that, because we had it, or it was in existence at that time. So the written instructions refers to that. To the best of my knowledge, prior to that time, I had not, no.

That is June 29 of this year. Now, he is referring, "to the best of my knowledge, prior to that, I had not, no." Now, that is talking about instructions.

Mr. NASSIKAS. That is right. He never got an instruction, he says, about destroying or not destroying.

Senator KENNEDY. Or not destroying.

Mr. NASSIKAS. That is right. That is an accurate statement. But, that does not in any way contradict what I have stated.

Senator KENNEDY. Well, how do you have a Commission policy when he does not know about it? Who does know what the Commission policy is?

Mr. NASSIKAS. He knows what the Commission policy is as to R-405, and he knows that nothing should be destroyed. This is precisely what his understanding is. If you asked him the question, that is the way he would have answered it.

Senator KENNEDY. Based upon what? Based upon what testimony are you able to give to this committee, either written or oral, that you have ever set up any procedures to any persons within that department that they should not have destroyed these materials?

Mr. NASSIKAS. I have not represented to you once, I do not believe, that we set up procedures and written instructions in this kind of thing as to destruction or nondestruction. I indicated that we had an understanding that documents, generally speaking, should be retained. As to R-405, there is no question about it that R-405 documents in the second one should have been retained, and in my mind there is no question that the worksheets in the first 405 should have been retained.

Senator KENNEDY. Well, "we" should not apply to Mr. Albares because it certainly was not his understanding, and it should not apply to Mr. Joyce. I do not believe that the record will state that he said, that it was his understanding, and certainly Mr. Vivian, because it was not his understanding.

So whoever "we" refers to does not include three extremely important and responsible officials.

Mr. NASSIKAS. Mr. Albares has indicated that he had nothing to do with the second R-405 proceeding.

Senator KENNEDY. Talking about the destruction of materials, Mr. Nassikas, and the memorandums that went out and were circulated and generally available within the agency—

Mr. NASSIKAS. Yes, sir.

Senator KENNEDY [continuing]. Would you have approved of the return of the documents to the companies?

Mr. NASSIKAS. No, sir. In fact, as soon as I discovered that, which was again, May 21 or May 22, I insisted immediately that we get them back. I indicated that if they did not want to produce them voluntarily, I would personally sign the subpoena.

I believe that under our existing order, it is perfectly clear that no documents are to be returned to the company. And that company, I understand, subsequently did return the document in question.

The way our order was phrased, I think, is particularly relevant here. We say first in the R-405, September 12, 1972, order, that the investigation initiated by notice November 4, 1970, be updated by the filing by natural gas companies of responses to questionnaires, and that such responses be submitted by hand to Mr. Lawrence R. Mangen at room so-and-so in an envelope plainly marked confidential.

Then in paragraph 2 of the September 12 order, "For purposes of this investigation, no responses submitted in compliance herewith shall be made available for the inspection or copying by the public. Individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provision of section 8(b) of the Natural Gas Act," et cetera.

And then, "It should be noted that unlike the previous filing, all responses will be made at the Federal Power Commission offices in Washington, D.C."

So that in the previous order, R-405 of November 4, 1970, taking the similar language just for the sake of comparison here for a moment, paragraph 8 prescribes: "Producers will be called upon by an investigating officer to make this information available on an individual company basis.

"This information will be composed. Information revealed to the staff [not filed with the staff] shall be treated as confidential information without public disclosure."

Then, "Compliance with the order shall not constitute nor be construed as a waiver of any claim of privilege by any producer."

Now, if a producer claims—and I recognize that this may be subject to possible legal differences—but if a producer claims that in our second 405 proceeding that his compliance did not constitute a waiver of any claim or privilege, or that he can impose conditions upon the receipt of information by an independent regulatory agency of Government, I do not agree with it. I do not think I agree with that legal conclusion.

I do not think that there is any breach of faith not returning documents. I think we are acting exactly as the producers expected. They filed the information with us under the terms of our order. We keep it until further order of the Commission.

Senator KENNEDY. Well, of course, Mr. Allen whom you referred to earlier saw the details quite to the contrary.

Mr. NASSIKAS. This shows you, Mr. Chairman, I think that we do not have agreement between staff and the Commission and the Chairman; whether it is the Office of Economics or whether it is Mr. Allen, it does not make any difference.

Senator KENNEDY. And whether it is destruction of material?

Mr. NASSIKAS. What is that, sir?

Senator KENNEDY. Or whether it is the destruction of materials?

Mr. NASSIKAS. Well, that may go particularly to evidence as to what the policy is; and of course, I recognize that it is your prerogative to judge the evidence, just as it is our prerogative to judge the evidence before us before we decide a case. The only difference is ours go up to court; decisions of the Congress do not.

Senator KENNEDY. No. We just go to the people. That is all.

Mr. NASSIKAS. That is right.

Senator KENNEDY. That is right.

Mr. NASSIKAS. I would just as soon go to the people. I will go to the people.

Senator KENNEDY. Just in a final reference to Mr. Joyce's awareness. Reading from the transcript in questioning Mr. Albares yesterday:

Senator KENNEDY. Was Joyce present at any meeting when you or Mangen discussed or talked about the destruction or returning of the materials?

Mr. ALBARES. Yes, sir. I think Mr. George Lewnes of our Office of General Counsel, plus there were many people at these discussions—earlier discussions, I should say, Senator. Most of them were made—mine were made, I should say, in the presence of Mr. Joyce, yes.

Mr. NASSIKAS. George Lewnes is a fine attorney with our organization. Let the record speak for itself. I do not know whether Mr. Lewnes has been interrogated. I do not think he has been interrogated by this committee.

Senator KENNEDY. We will ask Mr. Lewnes if he would like to make any kind of comment with reference to that.

Mr. NASSIKAS. That is up to you, Mr. Chairman.

Senator KENNEDY. Could I go to another area, Mr. Chairman, and that is, we talk, Mr. Chairman, about the surveys—the effectiveness of the surveys. Again, granted that they had not been done prior to the time that you assumed responsibility.

Now, it is always easy, no matter what you are talking about—studies, or reviewing history, or past decisions—it is always easy to do so with the benefit of hindsight.

Mr. NASSIKAS. Yes, sir.

Senator KENNEDY. And I think all of us are used to people doing that. But why is it, as we have heard in testimony, that it is those economists who warned on the survey within the Commission, who really talk about the limited nature of the survey?

But it was entirely possible to develop an inquiry and a survey that would really provide for the Commission the true gas reserves that existed in this country.

Do you see any limitation in any way on your authority of getting all the information that is essential to provide for the Commission and the Congress the quantity of natural gas, not only that exists, but the potential reserves?

Mr. NASSIKAS. There are some limitations, I believe, on our authority, and let me explain what I mean.

I think, in the first place, that we can develop data, as we have been attempting to, that gives us a reasonably reliable basis for determining the extent of a shortage within certain reasonably reliable limits of accuracy.

But under the recent Gas Act, Section 8(b), it states that we can collect information from natural gas companies. That is the way this section reads, natural gas companies.

Then you turn to section 2(6) to see how a natural gas company is defined, and the law states natural gas company means: "A person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale."

Well, if it is a jurisdictional company which would include interstate pipelines, selling for resale, or a producer who has committed his reserves to a jurisdictional company—and the producer himself is jurisdictional—then my belief is again this may be subject to legal challenge in the courts, that we do have the authority to get that reserve information from such companies. And, that if they do not wish to produce it voluntarily, that we can secure that information by compulsory process.

As to the intrastate producers and intrastate pipelines that are exempted from our jurisdiction by the statute—

Senator KENNEDY. Have you ever asked for that material?

Mr. NASSIKAS. From the intrastate?

Senator KENNEDY. No.

Mr. NASSIKAS. From the others?

Senator KENNEDY. Yes.

Mr. NASSIKAS. Oh, yes. We did so in our gas reserve study. We have the reserves overall. We do not have a breakdown in this study of what part of those reserves may have been committed to interstate or intrastate; but we do have such information in our form 15 reports by the pipelines, which indicate the amount of reserves that have been committed to interstate commerce. So that we can get into an evaluation and analysis through our Bureau of Natural Gas or Office of Economics, if they are willing to undertake it, of the relationship between form 15 data that we have and this reserves data. But there are limitations.

Senator KENNEDY. Well, just on this point, why do you have someone like a member of the Power Commission's reserve study, as Professor Pifer, who, when asked if he thought that a significant number of reserves are not included in that total, he responded "I think that, that is true?"

Why would anybody think that that would be true if all of those reserves—

Mr. NASSIKAS. Well, I would like to invite your attention, Mr. Chairman, to Paul Root's very scholarly reply to Dr. Pifer's allegations. And I do not like to state on a record and try to categorize people as to what their competence is; but I do know that Dr. Root is highly competent, and I think that he has answered Dr. Pifer in his response that is part of the public record here.

I do not believe that our statistical sample is invalid. I think that it is the type of sample that in our next survey we will improve on.

Certainly, we could add some smaller fields. Certainly, we should review some of the larger fields again, or all of them again. Instead of 58 percent of reserves, perhaps the next time the staff, Gordon Zareski, and the present technical director, and Paul Root as a consultant and the rest of them may be able to evaluate reserves up to 70 percent of national proved reserves. As I say, I think the answer to your question is contained in Paul Root's letter.

Senator KENNEDY. You have Mr. Halverson, who was the Federal Trade Commission Bureau Chief of Competition, who is talking about the in-house annual reports that have been found to be lower than estimates of proved reserves that are used for other in-house purposes. And sometimes the difference is very significant, in amounts of over 200 percent.

I mean, the point is how much confidence can the people really have? The Federal Trade Commission Chief of Competition says this. You then have a member of the study itself who is coming up with these observations.

I mean, why should there be those kinds of—

Mr. NASSIKAS. I do not know really any background for the basis of Mr. Halverson's claims. Dr. Root again sent a very scholarly and technical letter pointing out the deficiencies in Mr. Halverson's testimony and conclusions.

I do know that if there are reserves—I will say this, that if there are reserves that are under reported, and reserves under reported according to the definitions which we have submitted, that we ought to know about it. And I would hope and welcome that the Federal Trade Commission calls it to our attention.

In fact, back quite a while ago—I would say that this was about 2 years ago or a year and a half ago, we had an exchange of letters between Miles Kirkpatrick, the then Chairman of the Federal Trade Commission, and myself, in which it was indicated that anything relevant to our responsibilities would be called to my attention. That would include, of course, any reserves that might be determined to be available for delivery, which might alleviate the deepening gas crisis in the United States—which, by the way, as Mr. Chumbris pointed out earlier, in testimony in November 1969, I outlined in detail—

Senator KENNEDY. Actually, to get any of the information, they are going to have to hand copy any of the information they need, are they not?

Mr. NASSIKAS. In getting information?

Senator KENNEDY. According to last night's news story, to—

Mr. NASSIKAS. Yes, sir.

Senator KENNEDY. They are going to have to hand record.

Mr. NASSIKAS. Yes, sir. That is what they requested. Their petition requested that one of their attorneys, a Mr. Lytle, Theodore Lytle, Jr., who was named in our order, be authorized to come to the Commission and to copy the reserve estimates by 24 fields.

They filed the petition with us.

Senator KENNEDY. Can they Xerox it, or can they make copies of it, or do they have to hand copy it?

Mr. NASSIKAS. There is, to my knowledge, a copy that is in our safe that is in the handwriting of Mr. Fred Lawrence, who is now the

technical director of the gas survey, in whose custody this information is kept.

This was supplied. The reason there is a copy of it was this was supplied to the Commerce Committee on their request either yesterday or the day before. I believe it was—maybe it was Monday.

Senator KENNEDY. When they go over there, can they take whatever that fellow has and just take a Mimeograph machine, or is he going to have to copy that?

Mr. NASSIKAS. Well, if they want to change the request, we want to accommodate them.

Senator KENNEDY. No. I mean, if they want a copy, do you determine a copy doing it by hand or by Xerox machine?

Mr. NASSIKAS. What they asked for specifically, Senator, is that he be authorized to copy. If you would like me to read the—there is no question about that in my mind. I can find this among my papers. But we granted them the opportunity to do precisely what they requested. I have it right here. Why do I not go to it.

Senator KENNEDY. Well, did the request say copy by hand or just copy?

Mr. NASSIKAS. That is why I am trying to find the particular—

Senator KENNEDY. Well, I do not know what is in there, and you do; but I would be willing to bet you it does not say copy by hand.

Do you want to wage a friendly gas line up to Massachusetts on that? [General laughter.]

Mr. NASSIKAS. I am sorry, Senator. I did not hear you. [General laughter.]

Mr. NASSIKAS. I have the order here now.

Senator KENNEDY. You are impressing me to no end to be able to find that request out of all of those books.

Mr. NASSIKAS. I sometimes impress myself. I think it is the most difficult thing to keep your hand on all of these things, but—

Senator KENNEDY. Including records.

Mr. NASSIKAS. Well, I do wish that staff would follow the direction of the Commissioner by retaining records.

Well, I will have to get that for you.

Senator KENNEDY. That is all right. We will get it.

Mr. NASSIKAS. I am sorry. I thought I had it, but I do not.

Senator KENNEDY. But the only thing, Mr. Chairman, that if the request is made in getting a copy of certain material that included in that definition is at least an opportunity not to require copying by hand, are you going to require that they—

Mr. NASSIKAS. We have required, and our order indicated that Mr. Lytle could come over and copy the records, which is precisely what they asked for.

Senator KENNEDY. Does that include that if he comes over and copies, that he photocopy?

Mr. NASSIKAS. I believe what they requested was to copy by hand, but if he wants to settle for receiving a copy, I suspect that he will get a copy.

Senator KENNEDY. All right.

Mr. NASSIKAS. But our order says copy. Why? Because that is what the FTC asked for—not the FTC, by the way. I had better make

that distinction—the Bureau of Competition of the Federal Trade Commission made the request. Mr. Halverson asked for this information, and the FTC has indicated specifically that they have not intervened as a Commission in this proceeding. We have accommodated their staff.

Senator KENNEDY. Now, in talking about the collection of the earlier materials, we had Mr. Haskell Wald, who is your chief economist, testifying that in his professional opinion the 405 survey was really not reliable for the purposes of indicating the available reserves held by gas producers. And he indicated the survey provided too much leeway that permitted the companies to make their own decision as to how much gas they wanted to disclose.

And then Mr. Wald also indicated that the Commission has never required companies to report their total gas reserves. Is that correct?

Mr. NASSIKAS. I would say largely yes. I am not quite sure of the first part of it.

Senator KENNEDY. Why? Should we have not that information?

Mr. NASSIKAS. The reserve data we collected here for our gas survey, the National Gas Survey, is, as I said earlier, on a statistical sampling basis; so that we do not have on a company-by-company basis of all their reserve data.

So I believe that what he said there was accurate insofar as that is concerned.

Senator KENNEDY. Well, do you not think that would be helpful to have that information, that total information?

Mr. NASSIKAS. In the course of time it would be helpful.

Senator KENNEDY. Well, how much time?

Mr. NASSIKAS. To have that information? Well, I say in the course of time, because this means money and resources. I testified before the Senate Commerce Committee last week that while I opposed a bill, S. 2506, the Oil and Gas Regulatory Reform Act of 1973, that they presented there, I support the concept of the part of the bill which provided that we have a company-by-company reserve study done by the Federal Power Commission. I indicated that certainly I thought that was a good idea. Let's at least have it done by some government agency, and let's get all of the information that we need on a company-by-company basis. However, Senator Kennedy, let me state a caveat on this. I also asked that in the event this kind of legislation were to be passed and the resources were to be given in the funding for that project, let's also make absolutely sure that the legislation says whether it would be confidential data, or whether it would be publicly disclosed. Because I am certain that in the event that any agency of government is directed to conduct this kind of survey and this is not written into it, that this would be a legal controversy that would go to the U.S. Supreme Court, which would mean a delay of at least another 3 or 4 years I am afraid. And we cannot afford that. We do not have the resources to deliver, despite Dr. Wilson's Pollyanna attitude.

Senator KENNEDY. Well, now, in the third go-round, on the 405, is it not true that the majority of the companies are presently filing the same kind of material as in the second 405, even though material will not be classified confidential?

Mr. NASSIKAS. The answer to that is no. Let me explain. Docket 405 relates to uncommitted reserves, only uncommitted reserves. I thought we were talking earlier of all reserves.

Now, on uncommitted reserves the policy we set up in 405-A was to make this public. Second, which I think is an improvement, we decided to make the figures subject to audit. In other words, once the figures are submitted, we should send our staff down and audit the figures that are submitted, at least on a selective basis, to be sure not only as to the accuracy of the figures, but also to determine what gas may be used for warranty purposes, warranty sale purposes, or for producers' own use.

We can derive some very useful information on an audit basis. The majority of the companies—I believe it is perhaps some 54 companies—have acquiesced and supplied the information voluntarily. We have that in our public file. And there are some 16 companies that for one reason or another either did not state anything about why they would supply it, or stated that they did not believe they should supply it.

We issued an order to show cause so that those 16 companies could develop their reasons, if any, on a hearing record so that we can then make our determination as to whether we should compel the production of the data, if it serves a public interest purpose, and to have this public by terms of our order.

In other words, we have a change in our 405-A from the confidentiality provisions of the other 405's. We believe this should be done on a public basis because, among other reasons, I do not think that we really can protect the confidentiality of that information at the Federal Power Commission. Certainly as to the demands of the Congress, we cannot do that.

In a recent ruling on the 24 fields, when the Commerce Committee made a request for the records, which I construed to be a demand for the production of this data, short of a subpoena, the information was produced and delivered I believe Monday or Tuesday of this week.

Senator KENNEDY. Well, I understand, Mr. Chairman, that of the 79 companies that were actually requested, there have only been 12 of them that have refused now to provide that information.

Mr. NASSIKAS. There may have been 12 that refused, but somehow there are 16 companies involved.

Senator KENNEDY. Well, I mean, 16. Do you want to extend 12 to 16? I would be willing to give you that. Out of 79 that is a pretty impressive record.

Mr. NASSIKAS. That we have secured from the rest of them?

Senator KENNEDY. Indicating a willingness to comply.

Mr. NASSIKAS. Well, it is. On the other hand, regrettably I do not know of the ones that did not comply, what reserves they might be holding. In other words, just because numerically we have received reports from the vast majority does not mean that we have necessarily received reports of the majority of uncommitted reserves.

Senator KENNEDY. Well, do you have the power to get that information?

Mr. NASSIKAS. Well, it is a pending proceeding before us, Senator Kennedy; and I really would prefer to state that that is an issue in the pending proceeding, and there may be a conflict in our own Commission as to the legality. I really am not trying to avoid the question, but I do not want somebody to file a motion to disqualify me for saying that it is my view that you can or cannot get it.

Senator KENNEDY. All right.

Well, if you find out you cannot, are you going to come up to us and ask us for the power to get it?

Mr. NASSIKAS. If we find out that you cannot by a majority ruling of the Commission, I think I would like to defer that also because I think it may be quite academic.

As far as I am concerned, let me say this. I mean, after all this does not affect my judgment on that decision. As far as I am concerned, I want the information. As Chairman of this Commission, I want it. I am the one, whether it is good, or bad, or indifferent, who instituted the 405 proceedings in the first place. It was a bitterly contested Commission battle, as is expressed there with two dissenting Commissioners at the time we issued 405.

Now, I think we ought to get on a continuous informed basis, expanding the type of data that we get annually or semiannually—uncommitted reserves, contract terminations, commitments to intra-state, commitments to interstate. I want to get this information. And certainly on the uncommitted reserves I made it very clear that I believe we should get it. It may be a legal question as to whether I am right that we can get it.

Senator KENNEDY. Well, Mr. Chairman, what distresses me is your suggestion that we in the Congress and the American people are going to have determined for them whether the American people and the Congress and the Power Commission are going to get this permission on the vote of the Board of the Commission.

It seems to me that if you make a decision, the determination as the Chairman, or that other members of the Commission do, that they ought to be prepared to make such statements publicly and let the Congress make a decision of determination.

If other members of the Commission feel that that is not necessary, let them come on up and testify right out there in front of members of the appropriate committees on it.

But I would certainly hope that you are not just going to wait until there is a majority of the members of the Commission that come up with a decision; but that if you make that determination, or the members of the Commission, you are going to be willing to make such requests of the—

Mr. NASSIKAS. Sir, I know we are not that well acquainted yet, but I certainly would not intend to just remain silent. I am an independent individual.

Senator KENNEDY. Well, I think certainly the Congress should be entitled, I am sure, as well as the Commission, for that complete—and I hope that the time that you make that decision or that you need that authority, that you would not hesitate to make those views known.

Mr. Chumbris.

Mr. CHUMBRIS. Thank you, Mr. Chairman.

I know you have a commitment. I am only going to bring up one point with Chairman Nassikas, and that is, there has been much talk in the last couple of days about whether the actions by the Federal Power Commission have fulfilled the desires and the best interests of the public.

We have discussed the question of the Federal Trade Commission. We have discussed the various committees of the Congress. And there does not seem to be a unanimity of thinking between the different branches of the different commissions.

And that point that I raised, and I raised it earlier when we had Mr. Halverson here, was the fact that here Mr. Halverson submitted some data to our subcommittee, data that he admitted that he had information of only 3 companies out of 11 companies, and then those 3 companies out of 11 went only to one particular gas field in the United States and not the entire United States as I understand your study as looking to.

And this study was critical of the Federal Power Commission study. And the Federal Power Commission is the Commission delegated by the Congress of the United States to look out for the best interests of the United States as far as natural gas and whatever other matters you have in your jurisdiction.

And that is why I asked the question of Mr. Wilson this morning, had you brought these issues up with the Interior Committee; because the Interior Committee has been holding hearings. And the Interior Committee hearings and the Finance Committee hearings, especially on oil import quotas, were far different than the philosophy of our hearings in the Antitrust and Monopoly Subcommittee.

So here we have not only the agencies of government that are inconsistent on this, but we have actually even committees of the Congress, and actually the same committee in the House may take an entirely different position from the same committee in the Senate.

So when we talk about whether, or how the American people feel about the attitude that you have taken, and taking into consideration how FTC attacks your views, that is why I wanted Simon's paper or the study of the energy group, officially called the Office of Energy Advisors to the Department of Treasury, because they were far more critical of the FTC report than the FTC was of your report.

Now, these are the things that—and it gets back to the point, are we getting the information, first, And second, what kind of information are we receiving. And I think that the chairman has raised that point with you several times.

Mr. NASSIKAS. Yes.

Mr. CHUMBRIS. Are we going deep enough into the subject? I am just throwing all of these points out so that you and your Commissioners—and since you have four Commissioners here—that you all can consider these points.

We are not raising these points just for the sake of raising points.

Mr. NASSIKAS. I understand, Mr. Chumbris.

Mr. CHUMBRIS. And the minority and the majority have been on different points on many issues, but I think on this particular point I think most people will say we want your Commission to take another look at what you have done in the past.

Mr. NASSIKAS. Just take a look for a moment. Our natural gas reserve studies—

Senator KENNEDY. Now, I hope you do this briefly, Mr. Nassikas.

Mr. NASSIKAS. This will be very brief. I am not going to read the pages.

Recommendations: Number one, a Federal program for the purpose of estimating the nation's natural gas reserves on a continuing basis be established.

Second, and I will start with two:

An independent study of the nation's oil reserves be made. The Federal Power Commission staff should cooperate in such a study so that an independent estimate of the nation's dissolved-gas reserves might be obtained.

Let me go further. I think we should have—when a Department of Energy and Natural Resources is established, or maybe before that—we should have a central resource agency which will develop surveys of all of our resources—pardon me—develop inventories, whether it is proved, potential, speculative, or whatever it might be. This should be done. And I think it is imperative that our Nation have this done.

Now, I recognize that our studies have deficiencies, but nobody else has done it; and this is the reason that we are trying, within the limitations of the funds we have available to improve our ability to determine what the parameters are of the shortage.

Now, like the U.S. Geological Survey, Mr. Chumbris, the point was made this morning that, after all, we should get information concerning leases. This was in Dr. Wilson's testimony.

Our staff has tried to get information from the U.S. Geological Survey. We have requested it in the past; we have been unable to get it. Why? Because the information that they get concerning leases and the development and this kind of thing is confidential under their rules. Now, it seems to me that this sort of epitomizes the need for a centralized agency that has the power to get all of the information that is needed for us as a Nation to establish energy policies that are based on an intelligent data base.

I certainly would hope that the Treasury Department's staff analysis of the Federal Trade Commission's staff report on its investigation of the petroleum industry be made available. As the Chairman said, it will be available as part of the record to the proceeding. I will look forward to reading it sometime.

Mr. CHUMBRIS. I have nothing further. Thank you.

Senator KENNEDY. Mr. Chairman, I think you have really, in this last comment, spoken dramatically and eloquently about the dilemma we find ourselves in.

We find the Federal Power Commission cannot get certain information from the USGS, OE cannot get it from BNG. The trouble that Congress has getting it from the Federal Power Commission. The Federal Trade Commission cannot get information from the Federal Power Commission.

And you wonder why the Congress cannot act effectively, or why there is not information available to the Executive so that they could develop some national policy on this area.

And I think you have, in your final comment on this, pointed up the dilemma. And I think that hopefully, as the director of the Power Commission, you are going to be able to help us in the Congress and also point the way for the Executive, so that those particular kinds of roadblocks can be overcome.

I think this is what we have seen; this is what we see today. And the public is the great loser in this.

Mr. NASSIKAS. The Senate passed an Energy Policy Council bill some time ago that centralizes this kind of coordination of an Energy

Policy Council. That is not an answer. The Department of Energy and Natural Resources might be able to do it, too. Anyway, thank you.

Senator KENNEDY. I have just a final comment to make. First, the Antitrust Subcommittee will continue its study of the concentration in the oil and gas industry. And our Administrative Practice Subcommittee will continue to oversee the Commission practices employed in furtherance of its legislative mandate.

Second, I suggest it appropriate that disciplinary proceedings be directed not against low-level employees carrying out widely known and accepted routine procedures, but against those who fail to fulfill responsibilities and make the Commission policies known to those charged with carrying them out.

Third, Senator Hart and I will ask our colleagues on the Antitrust Subcommittee to provide the documents of R-405 update to the Trade Commission for use in its investigation of the validity of our data on natural gas reserves.

And fourth, I will recommend that Congress' new Office of Technology Assessment devise a natural gas survey designed finally to ascertain valid, comprehensive, and truly useful data on our Nation's natural gas supply.

And finally, I will ask the Department of Justice to examine the analysis provided of the R-405 update to determine whether violation of the Federal criminal law prohibiting false statements to the Government may have occurred.

Mr. NASSIKAS. Thank you very much.

Senator KENNEDY. I want to mention for the record the splendid work that has been done by the staff of the Antitrust Subcommittee. I will include in there our staff as well. But it has just been extremely, extremely impressive and enormously helpful to me and the record—both the majority and minority.

It has been extremely impressive, and the record ought to so reflect. This concludes the hearing.

[Whereupon, the hearing in the above-entitled matter was adjourned at 12:40 p.m., subject to the call of the Chair.]

[The following was subsequently received from Chairman Nassikas:]

FEDERAL POWER COMMISSION,
Washington, D.C., February 6, 1974.

Hon. EDWARD M. KENNEDY,
*Chairman, Subcommittee on Administrative Practice and Procedure of the U.S. Senate
Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR SENATOR KENNEDY: On October 18, 1973, allegations were made in testimony before the Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practice and Procedure of the United States Senate Committee on the Judiciary that there may have been underreporting of uncommitted gas reserves to the Federal Power Commission in its nationwide investigation in Docket No. R-405.

At my direction the Commission's staff has investigated these allegations. Enclosed herewith is a copy of the staff's report on the results of its investigations.

Sincerely yours,

JOHN N. NASSIKAS, Chairman.

Enclosure: BNG Memo 1/28/74, "Investigation of Apparent Inconsistencies in Proved Reserves Reported as Available for Sale in Docket No. R-405, Order Issued September 12, 1972."

JANUARY 28, 1974.

Memorandum to: The Commission (for information).

From: Bureau of Natural Gas.

Subject: Investigation of apparent inconsistencies in proved reserves reported as available for sale in docket No. R-405, order issued September 12, 1972.

In response to a memorandum by Chairman Nassikas dated December 6, 1973, the staff has investigated apparent inconsistencies in the reports of proved reserves available for sale filed by major producer companies responding to the Commission "Order Updating Nationwide Investigation" issued September 12, 1972, in Docket No. R-405. The purpose of this investigation was twofold:

(1) To determine whether or not a satisfactory resolution of the apparent inconsistencies was possible and, if not

(2) To determine whether or not the apparent inconsistencies resulted from deliberate underreporting of proved reserves which were available for sale on December 31, 1971, and June 30, 1972, the reporting dates prescribed in the Commission Order of September 12, 1972.

During November 1973 an examination by staff indicated apparent inconsistencies in the information submitted by several respondent producers in Docket No. R-405 in comparison with the same producers' sales contracts filed with the Commission within two months after the respective reporting dates specified above. In addition, allegations of the possibility of serious underreporting of uncommitted reserves had been made on October 18, 1973, before the Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practice and Procedure of the U.S. Senate Committee on the Judiciary.

The apparent inconsistencies revealed by the staff analysis were of two categories:

A. Producers who reported no proved reserves available for sale in certain geographic areas on December 31, 1971, or June 30, 1972, but who filed gas sales contracts with the Commission during January–February 1972 or July–August 1972,¹ for the sale of volumes of natural gas from the same areas for which no proved reserves available for sale had been reported. Eight respondent producers were in this category.

B. Producers who reported proved reserves available for sale in certain geographic areas on December 31, 1971, and June 30, 1972, but who filed gas sales contracts with the Commission during January–February 1972 or July–August 1972¹ which indicated that gas volumes to be delivered from the same areas under these contracts might substantially exceed the reported reserves available for sale. Three respondent producers were in this category.

On December 7, 1973, the staff sent letters to the eleven producers requesting explanations by January 2, 1974, for the apparent reporting inconsistencies. After analysis of the explanations, it was deemed necessary to contact four pipeline companies in order to verify statements made by five producers regarding the status of certain contract negotiations allegedly in progress on or before the reporting dates. Letters were sent to the four pipeline companies on January 7, 1974, and responses have been received.

Explanations for the apparent inconsistencies involving the eleven producers have been summarized and are presented below along with staff comments where appropriate. Company names have not been used in the following summaries because the information filed by the producers has been maintained in confidential status by staff in accordance with the Commission Order in Docket No. R-405, issued September 12, 1972.

CATEGORY A

1. The contract in question was executed by the producer on April 6, 1972, although the contract was dated July 3, 1972, and the buyer executed the contract on July 7, 1972. This was verified by the staff. The producer considered this gas committed as of June 30, 1972.

2. Although the contract was signed on February 4, 1972, the producer considered the gas committed as of December 31, 1971, because its interest in the sale was obtained by virtue of inclusion of its lease interest in a forced Conservation Commission unit effective October 1, 1971. The gas from the well was being sold to a pipeline company by other producers prior to the formation of the unit and the producer in question elected to sell his gas to the pipeline by ratifying the

¹ The contracts were also dated within the same January–February 1972 or July–August 1972 periods.

existing contract. Subsequent to the formation of the unit, the producer reached a verbal agreement with the pipeline and the latter agreed to prepare the contact and ratification for purchase of the producer's unit interest in the gas. The ratification contract was furnished to the producer in January 1972 and signed by him on February 4, 1972. Staff has verified that the producer's ratification contract was dated February 4, 1972, but the pre-existing contract which it ratified was dated prior to December 31, 1971. The gas from the unit was not available for sale as of December 31, 1971, because it was committed to the pipeline prior to that date even though the ratification contract was not signed by the producer until February 4, 1972.

3. Although the contract was dated August 7, 1972, the producer did not consider the gas available for sale as of June 30, 1972, because the pipeline company had the major interest in the lease, had completed and tested a well on the lease between May 31 and June 20, 1972, and the producer and the pipeline were negotiating for the producer's interest prior to June 30, 1972, as indicated in a letter from the pipeline to the producer, a copy of which was attached to the producer's response.

4. Although the contract was dated August 23, 1972, the producer did not consider the gas available for sale on June 30, 1972, because the producer was in the process of final negotiations for the sale of the gas to a pipeline company. By letter dated January 14, 1974, the pipeline confirmed that negotiations for the sale of this gas were in progress as of June 30, 1972.

5. Although the contract was executed on January 7, 1972, the producer had been negotiating for the sale of the gas to a pipeline company between September 21, 1971, and December 21, 1974, and did not consider the gas available for sale as of December 31, 1971. The producer does not consider the "mere formality of executing the agreement in any way altered its prior commitment of these reserves." By letter dated January 22, 1974, the pipeline confirmed that negotiations for the sale of this gas began prior to December 31, 1971.

6. Although the contract was dated January 7, 1972, the producer had been negotiating with a pipeline company for the sale of the gas prior to December 31, 1971, as evidenced by a copy of a letter from the pipeline to the producer dated December 17, 1971. The producer considered the gas as committed to the pipeline company as of December 31, 1971.

7. Although the contract was dated July 14, 1972, the producer did not consider the gas available for sale as of June 30, 1972, because it had obtained an offer of a prepayment of \$180,000 on March 24, 1972, which the producer verbally accepted and felt obligated to sell the gas to the pipeline offering the prepayment. It was negotiating for the sale of the gas to the pipeline company prior to June 30, 1972. By letter dated January 15, 1974, the pipeline company confirmed the negotiation prior to June 30, 1972.

8. Although the contract was dated January 25, 1972, the company did not consider the gas available for sale as of December 31, 1971, because it was negotiating for the sale of the gas to a pipeline company beginning in June 1971. In November 1971, the company reached agreement with the pipeline on the terms and conditions to be included in an agreement including an advance payment by the pipeline. The parties recognized that the drilling schedule and the construction schedule would not permit deliveries until February 1973. In view of the time element and year-end pressures, no special effort was made to complete the details needed for the final contract forms. The producer felt it had a firm obligation prior to December 31, 1971, to sell the gas to the pipeline. By letter dated January 14, 1974, the pipeline company confirmed that negotiations were in progress for the sale of this gas prior to December 31, 1971.

CATEGORY B

1. This case involved the reporting of less gas than seemed to be indicated by a contract dated July 6, 1972. It appears however that the contract involved gas not reported in the questionnaire at all because it was considered not available for sale. The contract in question was signed by the producer on June 29, 1972, although the contract was dated July 6, 1972. Staff verified this by noting an acknowledgment attached to the contract showing the producer had signed the contract on June 29, 1972. Accordingly the gas involved was considered by the producer as committed as of June 30, 1972.

2. This case involved the reporting of uncommitted reserves in an area, where the volume reported seemed much smaller than indicated by a contract dated

January 26, 1972. The producer responded that the reported volume had no relationship to the contract in question. That contract involved gas in another area of the same county as that in which the reported reserves were located. The negotiation of this contract with a pipeline company was initiated by the producer's predecessors of ownership. The producer became involved in the contract negotiation during the acquisition of its interest from its predecessor. The assignment of interest was dated December 27, 1971, and was consummated on February 8, 1972. The gas sales contract with the pipeline company was in the final stages of negotiation but the producer had not concluded the acquisition of the interest in the reserves as of December 31, 1971. It did not report such reserves as available for sale because it had not in fact acquired title to the reserves as of December 31, 1971. By letter dated January 21, 1974, the pipeline company confirmed the statement that the reserves were under negotiation prior to December 31, 1971.

3. This case involves the reporting of smaller reserves than appeared to be indicated in the contract dated July 25, 1972. The company submitted a chronological listing of its drilling activities in the area involved, dates of deliveries and its current estimate of reserves from the wells involved. As of June 30, 1972, it estimated 750,000 Mcf of reserves available from the area based on drilling as of that date. Based on more up-to-date information, it currently estimates that 1,303,701 Mcf will ultimately be available from the reserves for which it provided the estimate as of June 30, 1972. It states while this is 175% of the initial estimate "it is not surprising considering the small magnitude of the reserve involved. About $\frac{2}{3}$ of the deliveries to a pipeline company under the contract in question were delivered from reserves which were not developed until after June 30, 1972." The production figures submitted indicated that the reserves involved have been substantially depleted within one year after being placed on production.

CONCLUSIONS AND RECOMMENDATION

Our investigation of apparent inconsistencies between the data filed by producers in response to the Commission Order in Docket No. R-405 and producer gas sales contracts, has revealed that the apparent inconsistencies have been reasonably explained and that allegations of deliberate underreporting of proved reserves available for sale are not supported, based on our analysis of the available information.

It is recommended that any future questionnaire designed to elicit information on reserves available for sale require the producers to specify those reserves for which negotiations for sales were in progress on or before the designated reporting dates.

In regard to investigating the accuracy of the reported estimates of proved reserves which were available for sale on the reporting dates December 31, 1971, and June 30, 1972, it must be remembered that there are two distinctly separate aspects of the problem:

- (1) Were any reserves available for sale by a major producer that were not properly reported as available?
- (2) With what volumetric precision were the estimates of uncommitted reserves reported?

This investigation has addressed itself exclusively to the first aspect based on information in the Commission's records. The second can only be determined by audit of the reservoir data supporting the estimates of reserves reported as available for sale.

LEON H. FRIEDLANDER,
Head, Data Management Section.

Approved:

GORDON K. ZARESKI,
Chief, Planning and Development Division.

Concurrence:

FRANCIS C. ALLEN,
Chief, Bureau of Natural Gas.

HASKELL P. WALD,
Chief, Office of Economics.

APPENDIX

Material Received for the Record

Messrs. GORDON GOOCH, THOMAS J. JOYCE,
Assistant Chief, Office of Economics.

MAY 14, 1971.

Attached are the alternatives which were prepared in conformance with our discussion last evening with the Executive Director. The explanation provided on alternatives A and B are self-explanatory. Alternative C relates to a proposed errata going to the initial brief which I feel is necessary if alternative B (which represents the OGC-BNG position) is adopted.

DAVID S. SCHWARTZ.

Attachment.

ALTERNATIVE A

This alternative is premised upon the OEC position that there be equal treatment of all Offices and Bureaus where there is a difference of position on various issues.

The following changes should be added to the proposed errata to Staff Reply Brief in AR61-2, *et al.* and AR69-1.

3. A footnote should be added immediately following the heading at the top of page 39 to read as follows:

"¹ The views expressed at pages 39-41 of this brief dealing with the reliability of cost estimates are the views of the Office of the General Counsel and the Bureau of Natural Gas."

4. A footnote should be added immediately following the heading at the top of page 42 to read as follows:

"¹ The views expressed at pages 42-48 of this brief dealing with new gas well gas cost issues are the views of the Office of the General Counsel and the Bureau of Natural Gas."

ALTERNATIVE B

This alternative is premised upon the OCC-BNC position that these Bureaus represent the staff view and therefore OEC should except to any material that they do not agree with.

The following changes should be added to the proposed errata to Staff Reply Brief in AR61-2, *et al.* and AR69-1.

3. A footnote should be added immediately following the heading at the top of page 39 to read as follows:

"¹ The Office of Economics excepts to the views expressed at pages 39-41 of this brief dealing with the reliability of cost estimates."

4. A footnote should be added immediately following the heading at the top of page 42 to read as follows:

"¹ The Office of Economics excepts to the views expressed at pages 42-43 of this brief dealing with new gas well gas cost issues."

ALTERNATIVE C

BEFORE THE FEDERAL POWER COMMISSION

Area Rate Proceedings } Docket Nos. AR61-2, *et al.* and AR69-1
(Southern Louisiana Area)

ERRATA TO STAFF INITIAL BRIEF

The following changes should be made in the initial brief submitted by the staff in these consolidated proceedings.

1. The Office of Economics excepts to the following sentence on page 10 contained in the section of the brief dealing with the gas supply situation:

"The staff's field audit served to verify the accuracy of the uncommitted reserves volumes as initially reported. (TR 5201-02.)"

2. The Office of Economics excepts to the following sentences on page 19 contained in the section of the brief dealing with the availability of resources:

"The evidence in the present record indicates that capital is now and will continue to be in short supply in relation to the capital requirements necessary to overcome the current gas supply crisis. (TR 1465, 6771). * * * The need for internally generated funds to finance an increased program of exploration must therefore be considered in the establishment of rates for gas already dedicated under long-term contracts."

3. The Office of Economics excepts to the following sentence on page 20 in the staff brief dealing with the response of gas supply to price:

"It is also contrary to the facts, which show that the volume of uncommitted proved reserves held by producers is extremely small."

4. The Office of Economics excepts to the following sentences on pages 23 and 24 in the section of the staff brief dealing with the response of gas supply to price:

"Price increases for gas will obviously make the drilling for gas more profitable and therefore more attractive. * * * If the requirements for wildcat acreage, equipment, labor, and capital are met, then an increase in gas price can be expected to have a direct, positive effect on the exploration effort, and the greater the price increase the greater will be the increase in the exploration effort, until the point of full resource utilization is reached. Beyond this point price increases will have little effect. (*Ibid.*)."

5. A footnote should be added immediately following the heading at the top of page 61 to read as follows:

"¹ The Office of Economics excepts to the views expressed at pages 61-64 dealing with the American Gas Association reserves data."

6. A footnote should be added immediately following the heading at the top of page 66 to read as follows:

"¹ The Office of Economics excepts to the views expressed at pages 66-80 dealing with the recent nationwide cost of nonassociated gas."

7. The Office of Economics excepts to the following sentences on page 95 dealing with the elimination of offshore price differentials:

"As noted earlier, the industry paid approximately \$850 million for offshore leases in December 1970. The cost of carrying the investment in these leases for one year at 15 percent is \$110 million. If this total cost is spread over the current offshore production volume of about 1.4 TCF, the unit cost result is almost 8 cents per Mcf. It is true that some leases involved will undoubtedly be transferred to producing accounts or written off during the first year. Nevertheless, this provides a striking measure of the cost of doing business in the offshore area.

"From the standpoint of both risk and cost, the evidence of record fully justifies elimination of offshore price differentials."

Respectfully submitted,

RICHARD V. MATTINGLY, Jr.,
Commission Staff Counsel.

FEBRUARY 12, 1970.

Re Comparison of Form 15 and AGA Statistics for Gas Reserves.

Chairman NASSIKAS,
Chief, Office of Economics.

We have made a quick check of the consistency of the reserves data reported to FFC on Form 15 and the reserves data published by AGA. Our results are summarized below.

The trends of the two series over the 1963-1968 period are broadly similar, in that they both advance year-by-year until 1968 when they both declined. The annual changes, however, can hardly be said to match each other, as shown below:

	Increase (or decrease) over previous year—billions of cubic feet	AGA (revised) ¹	Form 15
1964	4,698		453
1965	5,282		2,255
1966	2,208		3,624
1967	3,623		2,694
1968	(6,046)		(3,392)

¹ AGA total excluding reserves in Alaska, California, Illinois, Michigan, and Indiana. Reserves in these States are not reported in form 15.

In the first two years, 1964 and 1965, the increases reported in Form 15 were much smaller than the increases reported by AGA. In the next two years, Form 15 showed larger increases in reserves than the AGA data, while in 1968 the decline shown in Form 15 was much smaller than the decline reported by AGA. The AGA total of proved reserves at the end of 1968 was lower than at the end of 1965, but the Form 15 total was 2 percent (or 3.9 billion Mcf) higher.

The differences noted above may be entirely consistent with 100 percent accuracy in the two series, since the series measure different quantities. Form 15 applies to *dedicated reserves*, defined as "remaining recoverable salable gas reserves committed to, controlled by, or possessed by the reporting pipeline company." Form 15 reserves are those reserves covered by FPC certificate authorizations.¹ The AGA estimates are for *proved reserves*, which presumably include the dedicated reserves pledged for FPC certificates, plus the reserves underlying intrastate contracts, plus all other economically recoverable reserves in proven acreage. There is of course no reason why the two annual series should always move together or maintain a constant relationship to each other, since the interstate pipelines may succeed in contracting for a very high proportion of new reserve additions (or uncommitted reserves) in one year and a low proportion in another year.

We probably have reliable information on the reserves available to support the certificated volumes of interstate pipeline companies, and we are therefore able to speak confidently about the adequacy of these reserves to serve the existing market, but our knowledge of uncommitted volumes is limited to the information we can glean from the more comprehensive AGA statistics which we have no way of corroborating. FPC auditing of the approximately 70 percent of the AGA total which is reported on Form 15 tells us nothing about the reliability of the estimates for the remaining 30 percent.

We have also compared the AGA and Form 15 reports area by area for 1964 and 1968, using the published geographical breakdowns. This comparison revealed some surprisingly large differences between the two sets of estimates. The principal ones are listed below:

1. In the San Juan Basin Area, the Form 15 reserves are about 40 percent larger than the volumes reported by AGA. In Texas District 8 and in Wyoming, the Form 15 reserves are also appreciably larger than the corresponding AGA estimates. If the both estimates rely on the same economic and geologic assumptions—apparently they do not—the Form 15 data should never exceed the AGA estimates unless there are reporting errors.

2. The Form 15 data provide very low coverage—35 percent or less—in several parts of Texas. The size of the Form 15 "sample" is only 20 percent of the AGA estimate in District 3, 30 percent in District 6, and 35 percent in District 4.

3. Between 1964 and 1968, the changes reported by AGA and Form 15 were in opposite directions in several areas. AGA reports a decline of 1.4 billion Mcf in Oklahoma from 1964 to 1968, while Form 15 shows an increase of 0.9 billion Mcf. On the other hand, in Texas District 4 AGA reports an increase of 1.6 billion Mcf during this period and Form 15 shows a decrease of 0.4 billion Mcf. There are other areas where the reported changes diverge. On the surface, large divergences of this sort are suspect, although it is always possible that they actually reflect major shifts in the relative holdings of interstate pipelines and others.

4. In several areas where the AGA and Form 15 estimates move in the same direction from 1964 to 1968, the magnitudes of the increases or decreases are surprisingly wide apart. For example:

Area	Change, 1964–68—trillions of cubic feet	
	AGA	Form 15
Kansas	-2.8	-1.3
North Louisiana	-0.6	-1.3
South Louisiana	+9.5	+6.2
Texas District 8	+2.2	+9.1

These results of our AGA-Form 15 statistical comparisons are not necessarily indicative of conflicting estimates, but they serve to illustrate how difficult it is to use the data from one source as a check on the accuracy of the data from the other source.

HASKELL P. WALD.

¹ Warranted reserves (i.e., reserves guaranteed by contract but not supported by the dedication of specific proved sources of supply) are also included in Form 15.

FEBRUARY 13, 1970.

Memorandum to: the Chairman.
 From: Producer Division, Bureau of Natural Gas.
 Subject: Reliability of Proven Reserve Estimates.

It is believed the reliability of gas reserve estimates for any specific reservoir or field initially is suspect. As the field or reservoir is more fully developed by additional drilling and production proceeds, the reserve estimates are revised on the basis of such additional information and are much closer to the ultimate recoverable reserves. However, even after considerable production experience, unforeseen happenings such as failure of wells or an entire reservoir could make the estimate erroneous.

In assembling a total of reserve estimates, such as the AGA figures, the incipient initial unreliability of the individual estimates are of course reflected in the total. AGA recognizes this and by its use of revisions from year to year corrects, to a considerable degree, the first estimate errors. Thus, in the AGA reserve estimate series, a particular year (especially the latest) may be off.

The value of the AGA reserve estimates is that it is a statistical series compiled on a fairly consistent basis yearly and can be reliable when used as a trend or guideline. Thus, a reversal from the past in an aspect of the series such as the ratio of yearly findings exceeding yearly production if confirmed in the subsequent year with production exceeding estimated findings appears to be a reliable signal that additional exploratory effort is needed to enhance the existing gas supply.

RELIABILITY OF INDIVIDUAL FIELD RESERVE ESTIMATES

An example of disparity in initial recoverable reserve estimates is extracted from the Commission's Opinion No. 351 in the CATCO producer case. From 27 FPC 107, the following excerpt is taken.

	Millions of cubic feet at 14.73 lb/in ² a		
	CATCO	Tennessee	Examiner ¹
Initial recoverable reserves	711,017	1,322,921	1,305,315
Recoverable reserves as of Jan. 1, 1960	650,065	1,261,969	1,244,363
Salable reserves as of Jan. 1, 1960	642,660	1,245,410	1,228,195

¹ The examiner admitted the experts' testimony conflicted, but after a detailed analysis selected the factors he thought better supported and derived his estimated reserve figure. 29 FPC 133.

The record shows that the major differences between CATCO and Tennessee relate to net pay (thickness of gas bearing formations), areal extent of the reservoirs, porosity values, and connate water content. In important instances, there were unreconcilable differences between the experts for CATCO and Tennessee, and the staff in its brief contended that the recoverable gas reserve of the four fields cannot be determined from the facts and testimony submitted by the parties. The staff, however, advocated using Tennessee's higher estimate to avoid injuring the public. On our part, the record does not permit us to arrive at a definite conclusion with respect to these reserves. . . ."

THE SHIP SHOAL BLOCK 28 FIELD RESERVE ESTIMATE

One of the most glaring miscalculation of initial reserve estimates occurred in connection with Transco's purchase of gas from several producers from offshore Louisiana in the Block 28 Ship Shoal Field. Transco's certificate application was in Docket No. G-16603. The original recoverable reserve estimate in 1959 was 202,050 MMcf and Transco's contracts with the producers had take-or-pay provisions based upon a 1 to 8030 ratio of recoverable reserves.¹ In 1960, the recoverable reserve estimate was 278,711 MMcf and in 1961, the estimate was 795,272 MMcf. In 1963, after addition of a deeper zone in 1961, the original recoverable reserve estimate had increased to 1,295,719 MMcf, a five-fold increase over the original estimate. This rapid increase in recoverable reserves, combined with other factors caused Transco to go into a large gas prepayment position (in the order of \$30 million but reduced to \$16 million at the end of 1968).

¹ Take-or-pay provisions were later amended to be based upon a 1 to 7300 ratio and in some contracts on a definite minimum quantity. Make-up time was also extended and is now ten years.

THE RAYNE FIELD IN-PLACE SALE RESERVE ESTIMATES

Opinion No. 322 (21 FPC 865) states the original recoverable reserve estimates for Rayne Field in 1959 were 988,771,000 Mcf and cites evidence of additional reserves in untested sands.

In Opinion No. 378 (29 FPC 251), Texas Eastern, the in-place purchaser, had increased its holding from approximately 79% to 81.5% and the reserve estimate was 1,021,329,000 Mcf.

After approximately ten years of production, in Opinion No. 565, the original recoverable reserve estimate used was 974,067,000 Mcf and was not contested in the proceedings. The figure was used principally to establish a rate of take for the producers.

The reserve estimates in this case were fairly consistent throughout and the original estimate in 1959 was apparently a good one.

SUMMARY

Producer Division concludes that certainly initial reserve estimates are not necessarily reliable for concluding a gas supply shortage exists, but that a statistical series, such as the AGA reserves studies consistently compiled over a period of years and revised as additional information is obtained, *is reliable as a signal or trend* to alert the Commission and the industry of a gas supply problem. This is especially true if the first signal, i.e., excess of production over findings is confirmed in a second year.

EDWARD M. McMANUS,
Chief, Producer Division.

FEBRUARY 19, 1970.

Re Questions regarding AGA reserves data.

The GENERAL COUNSEL,
Chief, Office of Economics.

Mr. Forquer asked us to submit a list of questions for discussion with the AGA Committee on Natural Gas Reserves. The following cover the more obvious questions which have concerned us for some time:

1. We are concerned over the apparent lack of adequate checks on the statistical reporting operations. A memorandum being distributed by Dr. Khazzeem to the Commission calls attention to a large reporting error in the reserves data for 1967. Because of this error, the 1967-1968 decline in reserves is overstated by 1.3 billion Mcf. If the Committee followed standard statistical procedure, they would have issued an errata sheet; instead, they adjusted for the error by reporting it as a negative revision in 1968. We would like to know whether there have been similar reporting errors of such large magnitude in the past. Would it be feasible to publish a revised historical series adjusted for all reporting errors? It should be obvious that our economists cannot make reliable studies of supply-price responses if the basic data are distorted by reporting errors.

2. We have several questions concerning the "revisions" category of reserve additions. It is a "catch-all" category including, for example, reporting errors such as the one mentioned above. It also includes reclassifications of gas and oil wells. In the case of some sizable negative revisions for associated and dissolved gas, we have noticed that they were not accompanied by equivalent revisions in oil reserves. We would ordinarily expect both types of revisions to be in the same direction. We believe that the Committee carries a responsibility to identify the sources of major revisions so that the analyst can make appropriate allowances in his interpretations of the data. Studying the year-to-year behavior of revisions, we suspect that the revisions are not the result of a continuing reappraisal of the estimates, but may instead be made sporadically depending upon when the estimators decide to re-examine the basic data. Thus, it is possible that the need for a revision may have been appreciated several years before the revision is reflected in the reported statistics. We wonder whether the Committee members are instructed to report revisions promptly, or whether they have some freedom in accumulating the revisions until the amount is large. Also, do they make revisions for all areas every year, or do they look at one area one year and another area next year?

3. The problem of "expendable holes" in the offshore area raises an interesting question. We understand that these wells are plugged even though commercial production is possible and that they are not counted as successful wells. We would

like to know whether the discoveries from these "expendable holes" are included in proved reserves.

4. It is possible for the AGA Committee to provide a breakdown of proved reserves between reserves dedicated to interstate pipelines and all other? Such a breakdown would facilitate comparison with our Form 15 reports. (It would also be very useful to include a category for reserves committed to the intrastate market and to direct industrial customers, but we may be going too far if we ask for such detail.)

5. The economic assumptions underlying the AGA reserve estimates have never been spelled out. The AGA Committee speaks of quantities recoverable "under existing economic and operating conditions" without indicating whether their estimates are tied to the prevailing price level for natural gas. Several of us have questioned AGA representatives about a possible change in their estimate of proved reserves if FPC's ceiling prices were raised. The answer given to us is that a price change would not have any effect on the estimate. We cannot make any sense out of such an answer unless the Committee's reference to "economic conditions" does not mean anything. Each rise in field prices should bring an upward adjustment in the AGA estimate of recoverable reserves. When the price is changed, the Committee should re-examine its previous estimates and add in these gas volumes which had been excluded because they were uneconomic to produce but which can now be produced at a profit. If our analysis is wrong, we need a more rational explanation from the AGA Committee than has been offered in the past.

6. We believe that the AGA Committee is in a position to provide much more useful information than they are now publishing. Apart from the breakdowns and explanatory data discussed above, the Committee should be able to report a "probable" category which would be in addition to proved reserves. The estimation of proved reserves automatically carries with it some knowledge of reserves which are not yet "proved up." We understand that some pipeline financing is based on "probable reserves" which do not qualify for the proved reserves category. It would thus seem that, with a little more effort, the Committee could relax its restricted definition of proved reserves and provide the public with another piece of information useful for analyzing the gas supply situation.

HASKELL P. WALD.

MARCH 23, 1970.

Memorandum to: General Counsel.

From: Chief, Office of Economics.

Subject: Propriety of Pre-Hearing Off-the-Record Meeting with AGA Witness
in AR69-1

As a follow-up to our telephone conversation, you asked for a memorandum explaining my concern over the propriety of the scheduled meeting of the FPC staff with Mr. John Jacobs, Chairman of the AGA Committee on Gas Reserves, on April 2. Mr. Jacobs is one of the witnesses being sponsored by a group of gas distribution companies in AR69-1. His testimony is due on May 1.

My reasons for concern are separate from any legal objections which might be made. I am not taking a position on whether the meeting would or would not violate either the letter or spirit of the Administrative Procedure Act or other rules governing the conduct of hearings on matters being litigated before regulatory bodies. The following discussion involves the question of propriety in an extra-legal context: Is there any possibility that the meeting will be interpreted by other parties as an improper attempt by the FPC staff to influence the witness' testimony or to elicit information which might be of value to them if it were made available on the record? Should we expose ourselves to the possibility of criticism because the meeting will afford an opportunity for the witness to influence the FPC staff?

As I recall the original purpose of the meeting, it was to discuss possible arrangements for FPC staff participation as observers in the work of the Committee on Gas Reserves. It now appears that the purpose has been extended to include discussion of all questions which our staff may have regarding the validity of the AGA estimates of proved reserves. I draw this conclusion from your memorandum of March 18 inviting the OSC staff (and, presumably, also the BNG staff) to take full advantage of the meeting with Mr. Jacobs to "ask him any and all questions that you wish, in any form that you wish," You made this

suggestion partly because staff counsel Mattingly was unable to accept some of our ideas for framing the questions being submitted to Mr. Jacobs in advance of the hearing. We see an important distinction between submitting questions which will be part of the official record of the proceeding and convening an off-the-record meeting with Mr. Jacobs to explore on a preliminary basis many issues being contested by other parties to the proceeding.

The root of my concern is that the meeting has the appearance of an *ex parte* communication.¹ It will be a closed meeting, there will be no transcript or official minutes, and there will not even be a public announcement that it is being held. Anyone who appreciates the intense suspicion with which the AGA estimates are regarded in some quarters should be sensitive to the danger of criticism if word of the meeting and the subjects discussed reaches outsiders.

Moreover, I am not at all convinced that the meeting's broadened purpose is entirely consonant with the staff's role as an adversary party to the proceeding. In effect, we will be holding a "moot court." Not only will the AGA witness be elated in on various problem areas which he should be prepared to discuss in his testimony, but he may also gather suggestions on how he should shape his responses on cross-examination. No other witness will be given this advantage of trying out his answers on the staff and using the experience, if he wishes, to sharpen his defenses in advance of the hearing. Is it proper for the FPC staff to engage in an activity which may help an outside witness build his case? Will the fact that it will be done behind-the-scenes create an impression of collusion? Isn't there some advantage in eliciting spontaneous responses during cross-examination instead of well rehearsed ones? After all, our interest is in full and accurate disclosure, which may not be Mr. Jacobs' primary motivation, since he may wish to build the best possible defense of the AGA statistics.

In my opinion, the meeting is not needed to aid the objective of rounding out the hearing record. This can be achieved in the usual manner—through cross-examination, interrogatories, rebuttal testimony, off-the-record conferences in the presence of the examiner and all parties, etc. The AGA witness will in any case be primed for our questions, since we have already submitted a list for him to cover in his testimony. What further gain will be realized by a trial run of his answers at the April 2 meeting?

It seems to me that a final decision on the meeting with Mr. Jacobs should be postponed until the above questions concerning the meeting's propriety are discussed with the Chairman or the full Commission. In the past we have operated under definite instructions to avoid private discussions with witnesses on matters in hearings. A change in these instructions should not be made at the staff level. If we are advised to go ahead with the meeting, some consideration should then be given to providing the participants with ground rules as to the content and conduct of the meeting.

HASKELL P. WALD.

NOVEMBER 13, 1970.

To: Chairman Nassikas.
From: Chief, Office of Economics.
Subject: Conflicting Estimates of Gas Reserves for Offshore Louisiana (Federal Domain).

The information on uncommitted reserves which was collected for the AR69-1 proceeding is very useful for comparisons between the AGA estimates and the Form 15 reports to this Commission. Up until now we have had no way of filling the statistical gap represented by uncommitted reserves which are intended to be included in the AGA reports but are of course excluded from our Form 15 reports.

Mr. Ralph Johnson of our staff has compiled the following comparison for the Federal Domain Offshore Louisiana as of December 31, 1969:

	<i>Reserves (Billion Mcf)</i>
Estimated by AGA-----	24.1
Estimated by BNG staff witness ¹ -----	34.1
Difference-----	10.0

¹ Exhibit No. 31A, Schedule No. 1.

¹ The Commission's rule on *ex parte* communications (§ 1.4(d)) prohibits "any employee participating in the decision" from having off-the-record communications with a party to a proceeding on any matter at issue in a contested proceeding. Attendance by bureau of office chiefs (or their deputies) at the April 2 meeting would appear to violate this rule.

The BNG staff estimate is 10 billion Mcf higher than the amount reported by AGA. The excess equals 42 percent of the AGA estimate. Several explanations are possible: (1) pipelines may be over-generous in reporting their dedicated reserves; (2) the AGA estimate may be based on more restrictive definitions than those followed by the pipelines; or (3) some reserves may escape the AGA reporting system. At the moment we do not know the true explanation.

The figures cited above are in the public record. The existence of so large a discrepancy between the two sets of estimates suggests that our Form 15 reports are useful for verifying the broad trends reported by AGA but not the reserves reported in particular producing areas.

A copy of this memorandum is being provided to Tom Joyee.

HASKELL P. WALD.

DECEMBER 2, 1970.

To: Mr. Joyee.

For your information, I am attaching comments which I instructed the General Counsel to append to our *joint memorandum* on the offshore reserves estimates. I would expect your support of the comment on the *40 percent range of error*, since the 40 percent is based on the staff's experience in checking estimates for uncommitted reserves.

HASKELL P. WALD.

DECEMBER 1, 1970.

To: Mr. Wakefield.

Please add an asterisk (*) after my signature and type in the following below:
"Comments by Mr. Wald:

1. A 40 percent allowance for judgmental factors may be appropriate for new fields without production experience, but not for fields which have been in production for a few years. Much of the offshore reserves is in the latter category.

2. I agree with the statement about corroboration of broad trends. However, the reliability of the AGA data for estimating unit costs or for assessing the adequacy of current supply is a separate issue—and a critical issue for the Commission's area rate decisions."

I would of course welcome the appropriate changes in the memorandum to accommodate my comments, so that I might sign without reservations.

HASKELL P. WALD.

FEDERAL POWER COMMISSION,
Washington, D.C., August 24, 1973.

Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly,
Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR CHAIRMAN HART: This will respond to your letter of August 3, 1973, which letter was received on August 20, 1973, and in which you posited three questions, answered herein.

1. Were the documents collected in R-405 original destroyed or are they maintained by the Federal Power Commission?

I described in my statement of June 26, 1973 before your Subcommittee the procedures utilized in the initial investigation in Docket No. R-405 (Tr. 121-126). In that initial investigation, gas producers supplied uncommitted reserve data to two investigating officers who copied the data on to worksheets. Those worksheets did not indicate which company reported which reserve data. The worksheets were subsequently retained by the staff of the Federal Power Commission.

As I indicated to you at the June 26, 1973 hearing (Tr. 123), I directed our General Counsel to conduct a search to determine the location of the original worksheets in Docket No. R-405. I was advised that these worksheets could not be located within the Federal Power Commission (See attached memorandum from General Counsel and Executive Director).

I indicated to you previously (Tr. 125) that any data collected by our staff, including the worksheets in the initial Docket No. R-405 investigation, should be retained. Nor have I, or the Commission, issued any directive or order to the contrary. I will, or course, advise you and the Subcommittee if these worksheets are subsequently located.

2. Was the company data obtained in Docket No. R-389A retained by the Commission?

Three investigations were made under Docket No. R-389A to survey intrastate rates for natural gas. Investigating officers surveyed individual intrastate producer contracts and prepared worksheets from this company data. Those worksheets are now in the safe of the General Counsel.

3. Will you submit for the record a memorandum to the Chief of the Commission's Office of Economics concerning access to data and information which, by Commission order, has been determined to be confidential?

On July 12, 1973, I submitted the subject memorandum, dated June 19, 1973, to you. I enclose an additional copy of that memorandum.

Sincerely,

JOHN N. NASSIKAS,
Chairman.

Enclosures (2):

1. Memo 8/23/73 from General Counsel and Executive Director to Chairman Nassikas.

2. Ltr 7/12/73 to Chm Hart from Chairman Nassikas w/memo 6/19/73 to Chief of Office of Economics.

[Enclosures retained in committee files.]

EXCERPT: NATURAL GAS ACT.—FEDERAL POWER COMMISSION

ACCOUNTS, RECORDS, AND MEMORANDA

SEC. 8. (a) Every natural-gas company shall make, keep, and preserve for such periods, such accounts, records of cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the administration of this act: *Provided, however,* That nothing in this act shall relieve any such natural-gas company from keeping any accounts, memoranda, or records which such natural-gas company may be required to keep by or under authority of the laws of any State. The Commission may prescribe a system of accounts to be kept by such natural-gas companies, and may classify such natural-gas companies and prescribe a system of accounts for each class. The Commission, after notice and opportunity for hearing, may determine by order the accounts in which particular outlays or receipts shall be entered, charged, or credited. The burden of proof to justify every accounting entry questioned by the Commission shall be on the person making, authorizing, or requiring such entry, and the Commission may suspend a charge or credit pending submission of satisfactory proof in support thereof.

(b) The Commission shall at all times have access to and the right to inspect and examine all accounts, records, and memoranda of natural-gas companies; and it shall be the duty of such natural-gas companies to furnish to the Commission, within such reasonable time as the Commission may order, any information with respect thereto which the Commission may by order require, including copies of maps, contracts, reports of engineers, and other data, records, and papers, and to grant to all agents of the Commission free access to its property and its accounts, records, and memoranda when requested so to do. No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books, records, data, or accounts, except insofar as he may be directed by the Commission or by a court.

FEDERAL POWER COMMISSION—ORDER REQUIRING REPORTING OF SPECIFIED RESERVES DATA AND PRESCRIBING PROCEDURE

(Issued March 17, 1970)

Before Commissioners: John N. Nassikas, Chairman; Lawrence J. O'Connor, Jr., Carl E. Bagge, John A. Carver, Jr., and Albert B. Brooke, Jr.

Area rate proceeding (Southern Louisiana Area) Docket No. AR69-1.

On January 28, 1970, Pan American Petroleum Corporation, and a number of other producers filed herein a motion requesting the Commission to enter its order requiring the reporting of certain gas reserves information by producer respondents for use in this proceeding. No answers thereto have been filed by any party or intervenor. The reserves data in question relate to the volumes of uncommitted proved reserves controlled by the producer respondents in the Southern Louisiana area as of year end 1968 and year end 1969, separately stating the Federal Domain

and the remaining Southern Louisiana area. We noted in our order enlarging this proceeding, issued December 15, 1969, that information of this type would be required, and we will accordingly order the reporting of such information, subject to the terms and conditions hereinafter set forth.

The Commission finds:

The public interest requires that the volumes of proved natural gas reserves held by producers in the Southern Louisiana area and not contracted to interstate pipelines be reported and made available in this proceeding in the form and manner hereinafter prescribed.

The Commission orders:

(A) The questionnaire attached hereto as Appendix A shall be completed by all large producer respondents. The questionnaire attached hereto as Appendix B shall be completed by all original AR69-1 producer respondents. The completed questionnaires shall be mailed to Arthur Young & Co., P.O. Box 1529, Tulsa, Oklahoma 74101 no later than May 1, 1970.

(B) Arthur Young & Co. shall furnish to the staff and to all parties to this proceeding a composite of the individual questionnaire responses as soon as may be possible and will return the individual responses to the respective companies.

(C) The individual producer respondents who make reports pursuant to this order shall make such reports (including any workpapers or other data underlying such reports) available in their offices to the Commission's Staff upon request of Staff counsel.

(D) Compliance with this order shall not constitute nor be construed as a waiver of any claim of privilege in any future case, by any producer respondent.

(E) The individual company responses to the attached questionnaires and any other information revealed by a Staff audit of the responses are to be treated as confidential information without public disclosure by Arthur Young & Co. or Staff. The provisions of § 8(b) of the Natural Gas Act [15 U.S.C. 717g(b)] and 5 U.S.C. 552(b)(4) (Freedom of Information Act) shall control.

By the Commission.

[SEAL]

GORDON M. GRANT, Secretary.

APPENDIX A

SUMMARY OF PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE OR RESERVED FOR "COMPANY USE—WARRANTY GAS" SOUTHERN LOUISIANA AREA, EXCLUDING FEDERAL DOMAIN REPORTED BY INDEPENDENT PRODUCERS

Instructions.—Each producer respondent who had total companywide jurisdictional sales of 10 million Mcf or more during 1968 will report all proved gas reserves in the indicated categories in the Southern Louisiana area, excluding the Offshore Area in Zone 2 and seaward.

Proved Reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the Committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, Proved Reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

Proved Natural Gas Reserves Available for Sale or Reserved for "Company Use-Warranty Gas" shall be reported as the reporting company's working interest (including royalty) in all proved gas reserves in the following categories:

A. Company use volumes held for fulfillment of warranty gas sales contracts but not specifically identified by field in 1968 Form 15 reports of pipelines nor to be specifically identified by field in the 1969 Form 15 reports of pipelines.

B. Volumes held "available for sale" are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas (A above), or company use—fuel and feedstock.

REPORT OF PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE OR RESERVED FOR "COMPANY USE—WARRANTY GAS" SOUTHERN LOUISIANA AREA, EXCLUDING FEDERAL DOMAIN

[*Thousand cubic feet at 14.73 lb/in² a*]

	Company use— Warranty gas	Available for sale
Volume of Proved Reserves		
As of December 31, 1968		
As of December 31, 1969		
Certification:		
I certify that the information submitted hereon is correct to the best of my knowledge.	Person to be contacted for Staff audit:	
Signature.....	Name.....	Position.....
Title.....	Address.....	
Company.....	Telephone.....	
Date.....		

APPENDIX B

SUMMARY OF PROVED NATURAL GAS RESERVES NOT CONTRACTED TO INTERSTATE PIPELINES OFFSHORE LOUISIANA AREA—FEDERAL DOMAIN REPORTED BY INDEPENDENT PRODUCERS

Instructions: Each producer respondent owning an interest in a lease in the Offshore Louisiana Area in Zone 2 and seaward will report all proved gas reserves in the indicated categories.

Proved Reserves are, using the definition of the Committee on Natural Gas Reserves of the American Gas Association, as follows:

"The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test."

"The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts, or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the Committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir."

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, Proved Reserves do not include the "portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities."

Proved Natural Gas Reserves not contracted to Interstate Pipelines shall be reported as the reporting company's working interest (including royalty) in all proved gas reserves in the following categories:

A. Volumes committed to direct industrial gas sales contracts, including contracts with subsidiary companies.

B. Volumes held for "company use" which shall include:

(1) Volumes held for fulfillment of warranty gas sales contracts but not specifically identified by field in 1968 Form 15 reports of pipelines nor to be specifically identified by field in the 1969 Form 15 reports of pipelines.

(2) Volumes held as fuel for gas processing plants and field operations and fuel or feedstock for refineries, chemical plants and other similar manufacturing operations, but not subject to specific contract arrangements.

C. Volumes held "available for sale" which shall be those volumes neither: (1) covered by A above, (2) covered by B above, nor (3) covered by contract with an Interstate Pipeline.

REPORT OF PROVED NATURAL GAS RESERVES NOT CONTRACTED TO INTERSTATE PIPELINES OFFSHORE LOUISIANA AREA, FEDERAL DOMAIN

[Thousands of cubic feet at 14.73 lb/in² a]

	Direct industrial contracts	Company use- warranty gas	Company use- fuel and feedstock	Available for sale
Volume of proved reserves:				
As of Dec. 31, 1968-----				
As of Dec. 31, 1969-----				
State volume of "Available for sale" reserves located in fields which (a) contain 50 Bcf or less reserves and (b) are located more than 5 mi from a pipeline which is in place or certificated as of Dec. 31, 1969-----				

Certification:

I certify that the information submitted hereon is correct to the best of my knowledge.

Signature-----

Title-----

Company-----

Date-----

Person to be contacted for staff audit:

Name-----

Position-----

Address-----

Telephone-----

FEDERAL POWER COMMISSION,
Washington, D.C., August 19, 1970.

Mr. GORDON M. GRANT,
Secretary of the Federal Power Commission,
Washington, D.C.

DEAR MR. GRANT: Enclosed is a corrected first page of my letter to you filed on August 14, 1970, in the above-entitled proceeding, as well as a corrected page 2 of 2 of Appendix C attached thereto.

These corrections should be filed as part of the report to the Commission pursuant to paragraph 11 of the Commission Notice issued June 17, 1970 in Docket No. R-389A and become part of the record therein.

Respectfully submitted,

JOHN W. WILLIAMS,
Investigating Officer.

FEDERAL POWER COMMISSION,
Washington, D.C., August 14, 1970.

Mr. GORDON M. GRANT,
Secretary of the Federal Power Commission,
Washington, D.C.

DEAR MR. GRANT: By notice issued June 17, 1970, as amended, in the above-entitled proceeding, the undersigned was designated as an investigating officer and charged with the responsibility for, among other things, investigating the "prices and other relevant terms applicable to contracts dated on or after January 1, 1966, for the intrastate sale of natural gas in the Permian Basin * * *" and other relevant information thereto.

In order to carry out this assignment, the undersigned on June 26, 1970, directed 48 gas producers representing all of the larger Permian Basin area producers with total jurisdictional sales of natural gas in excess of 10 million Mcf annually to respond to the investigation. A true and correct copy of this direction of June 26, 1970 is attached hereto as Appendix A.

All addressees first responded as to whether or not they had executed intrastate gas sales contracts within the scope of this investigation.

Those producers having relevant intrastate gas sales contracts other than percentage type contracts appeared before me at the Federal Building in Houston, Texas, during the period from July 6 through 9, 1970 and, subsequently, in Washington, D.C.

During the investigation of each producer's intrastate sale, the undersigned personally checked, or caused to be checked by representative of the Staff assigned to me, each and every gas sales contract subject to this investigation as well as its related billing statement, and tested the accuracy of the individual producer's responses to questions 9 through 34 of Appendix A hereto.

The data received from those producers having Permian Basin area intrastate sales of natural gas within the scope of this investigation has been composited, pursuant to the provisions of Section 8 of the Natural Gas Act, in a manner in Appendices B, C, D and E, attached hereto, that will not compromise the confidential nature of the individual intrastate sale. The methodology in which such data is composited is self-explanatory in each appendix. The data is reflected as follows:

Appendix B—entitled: "Docket No. R-389A, Weighted Average Rates and Range of Rates for Permian Basin Intrastate Sales"

Appendix C—entitled: "Permian Basin, Docket No. R-389A, Composite of Actual Delivery Conditions and Current Prices for Permian Basin Intrastate Sales for Contracts dated in 1966, 1967, 1968 and 1970"

Appendix D—entitled: "Permian Basin, Docket No. R-389A, Composite Summary of Contract Term, Escalation Pattern, Type of Gas, Delivery Point, Take or Pay Provisions and Advance Payments"

Appendix E—entitled: "Permian Basin, Docket No. R-389A, Summary of Intrastate Contractual Accelerated Take Provisions"

This letter together with its attachments should be filed as a report to the Commission pursuant to paragraph 11 of the Notice in Docket R-389A and become part of the record therein.

Respectfully submitted,

JOHN W. WILLIAMS,
Investigating Officer.

APPENDIX A

FEDERAL POWER COMMISSION,
Washington, D.C., June 26, 1970.

All large Permian Basin area Producers¹.

GENTLEMEN: Pursuant to the provisions of Sections 8, 14, 15 and 16 of the Natural Gas Act (52 Stat. 825, 828, 829, 830), and the authority delegated to me as an investigating officer by the Commission in its "Notice of Investigation" issued June 17, 1970 in Docket No. R-389, I have been charged therein to investigate intrastate sales of natural gas in the Permian Basin Area, as that area is geographically defined in the aforementioned notice, which are made under gas sales contracts dated on or after January 1, 1966. Accordingly, and pursuant to this authority, I hereby order and direct a representative of your company, who is a custodian of your records or his authorized delegate, to appear before the Investigating Officer at Room 5212 at the Federal Building, 515 Rusk Avenue, Houston, Texas, at 1:00 p.m. (CDST) on July 6, 1970; or at such other and further places and times as may be authorized in writing by the Investigating Officer, and produce and deliver to the Investigating Officer true and correct copies of your aforementioned gas sales contracts for annual volumes of 100,000 Mcf or more under each of said contracts, together with true and correct copies of your billing statements for all intrastate sales for the last calendar year period. For your recent sales, a single billing statement therefor will be adequate. If undue hardship is placed on any person, the undersigned should be contacted to make alternate arrangements at 202-386-3972.

In order to expedite this investigation and to apprise you of the information which is sought herein, the following oral interrogatories will be directed to your representative: (Further interrogatories will depend upon responses received.)

Question 1. Will you please state your name, the name of your company and your position with the Company?

Question 2. Are you responsible for the purpose of this investigation for the custody of your company's intrastate gas sales contract or contracts dated on or after January 1, 1966, with respect to sales of natural gas under each contract in excess of 100,000 Mcf annually in the Permian Basin Area as defined in Docket No. R-389? (Hereinafter referred to as "contracts.")

¹ The addresses, as listed in the appendix to this letter, are independent producers with jurisdictional sales of natural gas in excess of 10 million Mcf annually.

Question 3. Will you please list all such contracts by name of party and date, including any amendments or supplements thereto by date, whether written or oral.

Question 4. Are you responsible for the purpose of this investigation for the custody of your company's billing statements for all intrastate sales of natural gas, without respect to the contracts involved? (Hereinafter referred to as "billing statements.")

Question 5. Did you bring a true and correct copy of each of said contracts and copies of said billing statements with you?

Question 6. Do you understand that the Investigating Officer will combine the information obtained from you with information obtained from others and file a composite report in the public files in Docket R-389?

Question 7. Is there any reason why you cannot produce and deliver at this time the contracts and billing statements to the Investigating Officer?

Question 8. Will you please hand a copy of each contract and billing statement to the Investigating Officer?

Question Nos. 9 through 34 shall be asked with respect to each of the gas sales contracts, as amended or supplemented:

Question 9. What is the date of the contract, including the date of any amendments or supplements thereto whether written or oral?

Question 10. Who is the purchaser under the contract?

Question 11. Will you please furnish the name of the State, County, Field or Plant where the sale is made?

Question 12. What is the contract term?

Question 13. Does the contract, as amended or supplemented, contain take-or-pay provisions? If the contract contains accelerated take provisions, will you please state the period of time in years provided for accelerated takes?

Question 14. Does the contract, as amended or supplemented, provide for advance payments, drilling contribution or other considerations?

Question 15. Does the contract, as amended or supplemented, contain price escalation provisions? If so, what are they?

Question 16. Does the contract, as amended or supplemented, contain indefinite price provisions? If so, are favored-nation, redetermination, or renegotiation provisions involved?

Question 17. Is the gas sold under the contract (a) gas well or condensate gas, (b) casinghead gas, (c) residue gas derived from gas well gas, (d) residue gas derived from casinghead gas, or (e) a combination thereof? If the gas sold is a combination of types, will you please state what the types are; and their relative percentage by volume?

Question 18. Is the point of delivery of the gas (a) at or near the well, (b) at a central point in the field, or (c) at the tailgate of a plant? Will you please provide similar information with respect to point of measurement for billing purposes?

Questions Nos. 19 through 24 shall be asked with respect to contract delivery and quality provisions.

Question 19. What are the maximum and minimum delivery pressures in psig?

Question 20. What is the permissible total sulphur content in grains per 100 cubic feet?

Question 21. What amount of entrained water in pounds per MMcf is acceptable?

Question 22. What percentage of carbon dioxide by volume is acceptable?

Question 23. Is there provision for downward Btu adjustment? If so, what is the figure in Btu per cubic foot for determining adjustment downward?

Question 24. Is there provision for upward Btu adjustment? If so, what is the figure in Btu per cubic foot for determining the adjustment upward?

Question Nos. 24 through 29 shall be asked with respect to actual conditions of delivery, if known.

Question 25. What is the actual average delivery pressure in psig?

Question 26. To the best of your knowledge, is the gas sweet or sour at the time of delivery based on the quality standards set forth in Opinion No. 468-A?

Question 27. To the best of your knowledge, is the gas wet or dry at the time of delivery based on the quality standards set forth in Opinion No. 468-A?

Question 28. To the best of your knowledge, what is the percentage of volume of carbon dioxide at the time of delivery?

Question 29. To the best of your knowledge, what is the average Btu figure in Btu's per cubic foot at the time of delivery?

Question 30. What is the current contract base price in cents per Mef?

Question 31. What tax reimbursement, if any, in cents per Mcf is currently paid under the contract, as amended or supplemented?

Question 32. Will you please specify by type of charge and amount in cents per Mcf of each of those contractually provided additive or deductive charges currently applied?

Question 33. What is the total contract price in cents per Mcf received for the gas (inclusive of contract additive or deductive charges which were applied)? Is there a separate payment for extracted liquids? If so, what is the amount in cents per Mcf for such separate payment?

Question 34. What is the total volume of gas sold under this contract for the calendar year 1969? If this involves less than one full year's volume, will you please estimate the annual volume of gas to be sold?

Question 35. Do the contracts which you have delivered to the Investigating Officer constitute all of the company's gas sales contracts dated on or after January 1, 1966, for its intrastate sales of natural gas in excess of 100,000 Mcf annually under each contract involved?

Question 36. Were you present at all times while the contracts and billing statements were examined (but not copied)?

Question 37. Do you acknowledge the return to you of each and every contract and billing statement?

Question 38. Do you have personal knowledge of any offers, requests or demands made on your company on or after January 1, 1966, for interstate sales of natural gas that were rejected or not accepted by your company?

Question 39. If you have this information, will you please state what the offers, requests or demands were and why they were rejected, if you know?

Question 40. If not, what is the name of the official of your company who has this information?

Prepared presentations answering the proposed interrogatories are invited and may be submitted to the undersigned on your company's appearance at the investigation. However, tender of such presentation will not be accepted unless the witness or witnesses sponsoring such presentation are available at the investigation to adopt, under oath, such presentation, and to answer clarifying questions, nor shall said tender constitute relief from the requirement that production of the above-designated contracts and billing statements shall be made at the investigation.

For your further information, a copy of the form which the Investigating Officer will use to analyze contracts is attached. If you elect to prepare your presentation in advance, you may avoid narrative responses to questions 9-34 by utilizing this format.

If your company has not executed any intrastate gas sales contract within the scope of this investigation, then a certified statement in writing to this effect shall be submitted to the Investigating Officer on or before July 6, 1970, and no personal appearance will be necessary.

The individual company information received at this investigation will be kept in a confidential status by the Investigating Officer in accordance with the provisions of Section 8(b) of the Natural Gas Act.

Very truly yours,

JOHN W. WILLIAMS,
Investigating Officer.

Enclosure.

REPORT OF INTRASTATE SALE

[Report at 14.73 lb/in²a]

1. Name of seller	Amends.
2. Name of purchaser	Supps.
3. Contract dates: Basic contract	
4. Location: State
County	
Field or plant	
5. Contract term (years)	; (b) Period of time (years) of accelerated take, if any
6. (a) Take or pay (yes or no); (b) Period of time (years) of accelerated take, if any
7. Does contract provide for advance payment, drilling contribution, or other considerations (yes or no) years.
8. Escalation pattern	cents per million cubic feet
Indefinite price provision (yes or no)	Favored nation
Redetermination	Renegotiation

9. Type of gas¹ _____
 10. Point of delivery² _____
 11. Payment point³ _____
 12. Delivery and quality:

Item	Contract delivery and quality provisions			Actual conditions of delivery
A. Delivery pressure (psig):	Max. _____	Min. _____	(gr./100 ft ³)	Avg. _____
B. Total sulphur:	-----	-----	-----	(State sweet or sour) ⁽⁴⁾
C. Water:	-----	-----	lb/MMft ³)	(State wet or dry) ⁽⁴⁾
D. CO ₂ (percent by volume):	-----	Percent	-----	Percent
E. Btu (Btu/cu. ft.):	Adj. below _____	Percent	Avg. _____	Percent
Adj. above _____	-----	-----	-----	-----

13. Current contract base rate: _____ ¢/Mft³
 14. Tax reimbursement: _____ ¢/Mft³
 15. Other payments or deductions:

Item	Payment (cents)	Deduction (cents)
-----	-----	-----
-----	-----	-----
-----	-----	-----
-----	-----	-----
16. Current total price received ⁵ payment:	----- ¢/Mft ³	----- ¢/Mft ³ ; additional liquids
17. Annual volumes (actual 1969) ⁶ :	----- Mft ³	----- at 14.73 lb/in ² a.

¹ Use more than 1 code if appropriate and indicate relative percent of volumes. G—gas well or condensate gas; C—casinghead gas; RG—residue gas derived from gas well gas; RC—residue gas derived from casinghead gas.

² W—at or near well; F—central point; T—tailgate of plant.

³ Point of measurement for billing purposes. (Use "Point of delivery" codes.)

⁴ To the best of your knowledge state the actual condition and quality of the gas at the time of delivery based on the quality standards set forth in opinion No. 468-A, i.e., 20 grains total sulfur, 1 grain H₂S and 9 pounds of water.

⁵ Inclusive of contract additive or deductive charges which were applied.

⁶ For recent sales, estimate annual volumes.

ADDRESSEES

Amerada Hess Corp.
 American Petrofina Co. of Texas.
 Anadarko Production Co.
 Ashland Oil and Refining Co.
 Atlantic Richfield Co.
 Austral Oil Co., Inc.
 Aztec Oil & Gas Co.
 CRA Inc.
 Cabot Corp.
 Champlin Petroleum Co.
 Chevron Oil Co., Western Div.
 Cities Service Oil Co.
 Colorado Oil and Gas Corp.
 Continental Oil Co.
 Dorchester Gas Product Co.
 Forest Oil Corp.
 Frio Tex Oil and Gas Co.
 General American Oil Co. of Texas.
 Getty Oil Co.
 Gulf Oil Corp.
 Helmerich and Payne, Inc.
 Humble Oil and Refining Co.
 Hassie Hunt Trust.
 Hunt Oil Co.
 Kerr-McGee Corp.

Mapco Production Co.
 Marathon Oil Co.
 Mobil Oil Corp.
 Monsanto Co.
 Northern Natural Gas Production Co.
 Pan American Petroleum Corp.
 Pennzoil United, Inc.
 Phillips Petroleum Co.
 Plaeid Oil Co.
 Shell Oil Co.
 Signal Oil and Gas Co.
 Skelly Oil Co.
 Sohio Petroleum Co.
 Southern Union Production Co.
 Sun Oil Co.
 The Superior Oil Co.
 Tenneco Oil Co.
 Texaco Inc.
 Texas Pacific Oil Co., Inc.
 Transocean Oil Inc.
 Union Oil Co. of California.
 Union Texas Petroleum, Division of
 Allied.
 Warren Petroleum Corp.

APPENDIX B
DOCKET NO. R-389A—WEIGHTED AVERAGE RATES AND RANGE OF RATES FOR PERMIAN BASIN INTRASTATE SALES

[In cents per thousand cubic feet]

Contracts dated (a)	Contract rate†						Contract rate plus tax reim.‡			Current price**		
	Annual volume at 14.65 lb./in²a*	Weighted average††		Range (d)	Weighted average††		Range (l)	Weighted average††		Range (h)		
		(b)	(c)		(e)	(g)		(k)	(l)			
1966	29,036,920	16.97	13.65-19.25	17.02	13.65-19.33	17.12	13.17-20.31			16.32	15.24-22.00	
1967	16,766,834	16.28	15.24-22.00	16.32	15.24-22.00	16.32	15.24-22.00			16.32	15.24-22.00	
1968	136,092,726	17.11	13.00-18.30	17.16	13.05-18.30	17.23	6.10-18.30			12.23	6.10-18.30	
1969	146,350,242	18.33	12.00-20.25	18.41	12.00-20.33	18.41	8.26-23.99			14.57	8.26-23.99	
1970	103,116,234	19.83	18.00-20.50	20.25	18.07-20.50	20.25	15.60-23.07			21.47	15.60-23.07	
Total	431,362,956											

*Actual 1969 annual volumes or estimated as submitted by the producers.
†Rate stated in the contracts. For contracts with the rate on a million Btu basis the rates used were for 1,000 Btu gas.

‡Rate stated in the contract plus the tax reimbursement received. For contracts with the rate on a million Btu basis the rates used were for 1,000 Btu gas.

**Current price received inclusive of tax reimbursement, additive and deductive adjustments for gathering, treating, fuel and shrinkage, and Btu. It does not include any allowance with respect to take or pay contractual provisions or to advance payments.

††The term "weighted average" is defined as the sum of the annual volume of each contract multiplied by the applicable rate of each contract divided by total annual volume of all contracts dated in the respective year.

Note: All rates, prices, and volumes have been converted to 14.65 lb./in²a.

PERMIAN BASIN DOCKET NO. R-389A.—COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR PERMIAN BASIN INTRASTATE SALES FOR CONTRACTS
DATED IN 1966, 1967, 1968, 1969, AND 1970

[Prices in cents]

311/pressure (1)	Sweet ¹ and dry ²			Sweet ¹ and wet ³		
	CO ₂ , 0 to 3 percent (b)	CO ₂ , over 3 percent (c)	CO ₂ , not available ⁶ (d)	CO ₂ , 0 to 3 percent (e)	CO ₂ , over 3 percent (f)	CO ₂ not available (g)
Over 1,050:						
Over 1,000:						
Volume	55,166,353	-	-	772,228	1,759,580	-
Weighted average current price ⁵	23.02	-	-	19.87	20.29	-
Range of current prices ⁵	16.26-23.07	-	-	16.5-23.99	20.29	-
11) -1,000:						
Volume	4,546,536	-	-	2,865,030	-	-
Weighted average current price ⁵	17.27	-	-	20.48	-	-
Range of current prices ⁵	17.0-17.64	-	-	18.30-20.79	-	-
Below 500:						
Volume	3,454,066	-	-	7,731,089	6,823,965	-
Weighted average current price ⁵	14.95	-	-	14.30	19.74	-
Range of current prices ⁵	12.0-22.0	-	-	14.14-15.70	12.0-20.31	-
Not available ⁶ :						
Volume	-	-	-	-	-	-
Weighted average current price ⁵	-	-	-	-	-	-
Range of current prices ⁵	-	-	-	-	-	-
Blu						
Between 1,000-1,050:						
Over 1,000:						
Volume	63,166,955	-	-	11,388,317	1,759,580	7,294,831
Weighted average current price ⁵	-	-	-	-	-	-
Range of current prices ⁵	-	-	-	-	-	-
520-1,000:						
Volume	-	-	-	-	-	-
Weighted average current price ⁵	-	-	-	-	-	-
Range of current prices ⁵	-	-	-	-	-	-

PERMIAN BASIN DOCKET NO. R-389-A—COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR PERMIAN BASIN INTRASTATE SALES FOR CONTRACTS DATED IN 1966, 1967, 1968, 1969 AND 1970—Continued

Gas containing less than 20 grains total sulfur and 1 grain H₂S per million cubic feet.

Gas containing less than 9 lbs of water per million cubic feet.

Gas containing more than 9 lbs of water per million cubic feet.

Gas containing more than 20 grains total sulfur and 1 grain H₂S.

as the sum of the annual volume of each contract in each category multiplied by the applicable rate of each contract divided by the total annual volume of all contracts in each category.

APPENDIX D

GERMAN BASIN, DOCKET NO. R-389A—COMPOSITE SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT, TAKE OR PAY PROVISIONS, AND ADVANCE PAYMENT
[[in thousands of cubic feet]]

¹¹ Includes terms of 1, 3, 5, 10, 14½, 15, 16½, 18, and 19 years.

² Includes terms of 23 and 25 years.

For contracts with the rate on an MMBtu basis the escalations will include associations of 1.47%.

^a Includes escalations of 1.47 cents per 5 yr. 1.5 cent in 1973 and 1 cent in 1974.

cent in 1974, 1 cent in 1971, 0.5 cent in 1973 and 1 cent in 1978. and 0.75 cent in 1971 and 1 cent in 1975.

cent in 1978, and 0.3 cent in 1971 and then 1 cent per 5 yr.

cent in 1978, and 0

Classification 197

⁸ Residue from gas well gas.
⁹ Residue from casinghead gas.

9 Residue from cashewhead gas.

The products did not show

W-at or near the well.

at or near the well.

APPENDIX "E"
 PERMIAN BASIN DOCKET NO. R-389A—SUMMARY OF INTRASTATE CONTRACTUAL ACCELERATED TAKE PROVISIONS
^a
 [In thousands of cubic feet]

Contracts dated	Years of accelerated take										Total
	1½ ^b	2 ^c	4 ^d	5 ^e	5½ ^f	6 ^g	7 ^h	Contract ⁱ	Other ^j	(k)	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	
1966											
1967											
1968											
1969											
1970											
Total	4,035,075	75,808,766	31,319,081	136,520,749	62,642,800	328,500	8,764,000	22,447,629	28,242,752	370,109,352	

¹ (a) 11,000,000 per day per well until Jan 1, 1971 then a 1 to 8 take to reserve ratio.
² (a) 80 percent deliverability for 2 years then a 1 to 5.5 take to reserve ratio. (b) Lesser of 20,000,000 ft³ or 90 percent of deliverability for 2 years then a 1 to 6 take to reserve ratio.
³ (a) 20,000,000 per day per well for 4 years then a 1 to 7.3 take to reserve ratio. (b) 80 percent of deliverability for 4 years. (c) 90 percent of deliverability for 4 years then lesser of 80 percent or a 1 to 5 take to reserve ratio.

⁴ (a) 80 percent of deliverability for the first 5 years then a contract quantity based on a take to reserve ratio of 1 to 5. (b) 6,000 M ft³ per day for 5 years then a 1 to 5.5 take to reserve ratio. (c) 80 percent of deliverability for 5 years then a 1 to 5.475 take to reserve ratio. (d) 90 percent of deliverability for 5 years then a take to reserve ratio of 1 to 6 or 80 percent of deliverability whichever is lesser. (e) 80 percent of delivery capacity for 5 years then the lesser of 80 percent of deliverability or .000127 times gas reserves. (f) 90 percent of deliverability for 5 years then a 1 to 6 take to reserve ratio. (g) 83 percent of deliverability for 5 years then a 1 to 5.3 take to reserve ratio. (h) 90 percent of deliverability for 5 years then a 1 to 5.3 take to reserve ratio or 90 percent of deliverability.

⁵ (a) 90 percent of delivery capacity for 2½ years, 80 percent capacity for 3 years then a 1 to 5 take to reserve ratio. (b) 90 percent of delivery capacity for first 5½ years then a 1 to 5 take to reserve ratio plus casinghead.
⁶ (a) 600 M ft³ per day for 6 years then a 1 to 8 take to reserve ratio.
⁷ (a) 80 percent of deliverability for 7 years then a take to reserve ratio of 1 to 7.3.
⁸ (a) 80 percent of deliverability for the life of the contract. (b) Take to reserve ratio of 1 to 6 for 20 years. (c) 90 percent of available deliverability.
⁹ (a) 5,000 M ft³ per day for the first well, 4,000 M ft³ per day for each additional well. (b) 20,000,000 ft³ per day for the first well, 4,000 M ft³ per day for the first well, 4,000 M ft³ per day for the first well, 4,000 M ft³ per day for the first well until 1971 then a 1 to 8 take to reserve ratio and all casinghead. (d) 1,000 M ft³ per day, approximately 1 to 1 of reserves. (e) 10,000,000 ft³ per day from the Ellentburg formation and 5,000,000 ft³ per day from Devonian for 120 days then a take to reserve ratio of 1 to 7.3. (f) 25,000,000 ft³ per day, 80 percent of deliverability or a take to reserve ratio of 1 to 7.5. (g) 1 to 5 take to reserve ratio through 1971 then a 1 to 7.3 take to reserve ratio. (h) 2,000 M ft³ per day for the first year then a 1 to 6 take to reserve ratio thereafter.

FEDERAL POWER COMMISSION,
Washington, D.C., September 9, 1970.

Mr. GORDON M. GRANT,
Secretary, Federal Power Commission, Washington, D.C.

DEAR MR. GRANT: By notice issued July 17 1970, in the above-entitled proceeding, the undersigned were designated as investigating officers and charged with the responsibility in this expanded proceeding of investigating "prices and other relevant terms applicable to contracts dated on or after January 1, 1966, for all intrastate sales of natural gas * * *" including but not limited to the South Louisiana, Permian, Other Southwest, Hugoton-Anadarko, Texas Gulf Coast, Appalachian, Rocky Mountain and all other areas (except Alaska and Hawaii).

In order to carry out this assignment, on July 24, 1970, 70 gas producers representing all of the large gas producers whose individual total jurisdictional sales of natural gas are in excess of 10 million Mcf annually were directed to respond to this expanded investigation. A true and correct copy of this direction of July 24, 1970, is attached hereto as Appendix A.

All addressees first responded as to whether or not they had executed intrastate gas sales contracts within the scope of this investigation. Such contracts included those for annual volume sales of 100,000 Mcf or more under each of said contracts and for plant residue gas sales. Percentage type contracts and contracts where an unspecified portion of the price received is attributable to transportation, other than gathering by the producer for deliveries at a central point or at a processing plant, were excluded.

Those producers having relevant intrastate gas sales contracts appeared either before Mr. Paul L. Brady in Washington, D.C., during the period August 3 through 7, 1970, or before Mr. John W. Williams at the Federal Building in Houston, Texas, during the periods from August 3 through 7, 1970, and from August 11 through 12, 1970, or in New Orleans, Louisiana, at the Federal Building on August 10, 1970, or subsequently, in Washington, D.C.

During the investigation of each producer's intrastate sale, the undersigned personally checked, or caused to be checked by representatives of the Staff assigned to them for this purpose, each and every gas sales contract subject to this expanded investigation as well as its related billing statement, and tested the accuracy of the individual producer's responses to Questions 9 through 34 of Appendix A attached hereto.

The data received from those producers having relevant intrastate sales of natural gas within the scope of this investigation has been composited, pursuant to the provisions of Section 8 of the Natural Gas Act, in a manner in Appendices B, C, D, and E, attached hereto for each area as applicable, that will not compromise the confidential nature of the individual intrastate sale. The data was composited under the following areas: South Louisiana, Other Southwest, Hugoton-Anadarko, Texas Gulf Coast, Michigan, Rocky Mountain, Texas Railroad District No. 1, California, and Permian Basin, with the Permian Basin data representing merely a reprint of the initial report of the undersigned filed herein on August 14, 1970. The South Louisiana, Other Southwest, Hugoton-Anadarko, and Texas Gulf Coast areas are as geographically defined in the respective area rate proceedings. Texas Railroad District No. 1 does not include sales from counties within the expanded Permian Basin area. The methodology in which such data is composited is self-explanatory in each appendix. The data is reflected for each of the afore-mentioned areas as follows:

Appendix B—"Docket No. R-389A, Weighted Average Rates and Range of Rates for (area) Intrastate Sales"

Appendix C—"Docket No. R-389A, Composite of Actual Delivery Conditions and Current Prices for (area) Intrastate Sales for Contracts dated in 1966, 1967, 1968, 1969 and 1970" (as applicable)

Appendix D—"Docket No. R-389A, Composite Summary of Contract, Term, Escalation Pattern, Type of Gas, Delivery Point, Take or Pay Provisions and Advance Payments" (as applicable)

Appendix E—"Docket No. R-389A, Summary of Intrastate Contractual Accelerated Take Provisions" (as applicable)

This letter together with its attachments should be filed as a report to the Commission pursuant to paragraph 11 of the Notice issued July 17, 1970, in Docket No. R-389A and become part of the record therein.

Respectfully submitted,

JOHN W. WILLIAMS,
Investigating Officer.
PAUL L. BRADY,
Investigating Officer.

APPENDIX A

FEDERAL POWER COMMISSION,
Washington, D.C., July 24, 1970.

All Large Producers.¹

GENTLEMEN: Pursuant to the provisions of Sections 8, 14, 15 and 16 of the Natural Gas Act (52 Stat. 825, 828, 829, 830), and the authority delegated to me as an investigating officer by the Commission in its "Notice Expanding Notice of Investigation" issued July 17, 1970, in Docket No. R-389A, I have been charged therein to investigate intrastate sales of natural gas on a nationwide basis (except Alaska and Hawaii) which are made under gas sales contracts dated on or after January 1, 1966. This expanded investigation will encompass, but will not be limited to, gas sales contracts for intrastate sales of natural gas in the South Louisiana, Permian,² other Southwest, Hugoton-Anadarko, Texas Gulf Coast, Appalachian, Rocky Mountain and all other areas except Alaska and Hawaii. Accordingly, and pursuant to this authority, I hereby order and direct a representative of your company, who is a custodian of your records or his authorized delegate, to appear before an investigating officer (as appointed pursuant to paragraph No. 11 of the aforementioned July 17 notice, or such other officer as designated by the Commission) at the Federal Power Commission, 441 G Street, N.W., Washington, D.C. in Conference Room 2043 on August 3, 1970, or at such later time during the period August 3-7, 1970, as may be assigned by the Investigation Officer upon application by you, or at such other and further places and times as may be authorized in writing by the Investigating Officer, and produce and deliver to the Investigating Officer true and correct copies of your aforementioned gas sales contracts for annual volumes of 100,000 Mcf or more under each of said contracts³ and plant residue gas contracts, together with true and correct copies of your billing statements (or computer print-outs showing the billing components) for all intrastate sales for the last calendar year period. For your recent sales, a single billing statement therefor will be adequate.

The scheduling of such presentation will be handled by the undersigned. Please advise the undersigned, in writing, on or before August 3, 1970, of the number of said contracts that you have and specify your choice of alternative dates and places for making such presentation. If undue hardship is placed on any person, the undersigned should be contacted to make alternate arrangements at 202-386,3972.

Prepared presentations answering the interrogatories, as set forth below, are encouraged and may be submitted to the undersigned on your company's appearance at the investigation. However, tender of such presentation will not be accepted unless the witness or witnesses sponsoring such presentation, or his authorized representative, are available at the investigation to adopt, under oath, such presentation, and to answer clarifying questions, nor shall said tender constitute relief from the requirement that production of the above-designated contracts and billing statements shall be made at the investigation.

For your further information, a copy of the form which the Investigating Officer will use to analyze contracts is attached. If you elect to use this form, then it will not be necessary for you to make duplicate responses to questions 9-34.

If your company has not executed any intrastate gas sales contract within the scope of this investigation, then a certified statement in writing to this effect shall be submitted to the Investigating Officer on or before August 3, 1970, and no personal appearance will be necessary.

You are hereby further directed to respond in writing to the following interrogatories: (Further interrogatories will depend upon responses received.)

Question 1. Will you please state your name, the name of your company and your position with the Company?

Question 2. Are you responsible for the purpose of this investigation for the custody of your company's intrastate gas sales contract or contracts dated on or after January 1, 1966, with respect to sales of natural gas under each contract in excess of 100,000 Mcf annually and intrastate plant residue gas contracts, if any, in, but not limited to, South Louisiana, Permian, Other Southwest, Hugoton-Anadarko, Texas Gulf Coast, Appalachian, Rocky Mountain and all other areas except Alaska and Hawaii? (Hereinafter referred to as "contracts.")

¹ The addressees, as listed in the appendix to this letter, are independent producers with jurisdictional sales of natural gas in excess of 10 million Mcf annually.

² The previously instituted investigation relating to the Permian Basin intrastate gas sales contracts, pursuant to my letter of June 26, 1970, in Docket No. R-389, will continue to completion.

³ Percentage type contracts and contracts where an unspecified portion of the price received is attributable to transportation, other than gathering by the producer for deliveries at a central point or at a processing plant, are to be excluded.

Question 3. Will you please list all such contracts by name of party and date, including any amendments or supplements thereto by date, whether written or oral? (If you have complied with my letter of June 26, 1970 in Docket No. R-389, if applicable to you, it is not necessary to relist your Permian Basin contracts.)

Question 4. Are you responsible for the purpose of this investigation for the custody of your company's billing statements (or computer print-outs) for all intrastate sales of natural gas, without respect to the contracts involved? (Hereinafter referred to as "billing statements.")

Question 5. Did you bring a true and correct copy of each of said contracts and copies of said billing statements with you?

Question 6. Do you understand that the Investigating Officer will combine the information obtained from you with information obtained from others and file a composite report in the public files in Docket R-389A?

Question 7. Is there any reason why you cannot produce and deliver at this time the contracts and billing statements to the Investigating Officer?

Question 8. Will you please hand a copy of each contract and billing statement to the Investigating Officer?

Questions Nos. 9 through 34 shall be asked with respect to each of the gas sales contracts, as amended or supplemented. Please state the pressure base or bases you used for quality standards, volumes and prices.

Question 9. What is the date of the contract, including the date of any amendments or supplements thereto whether written or oral?

Question 10. Who is the purchaser under the contract?

Question 11. Will you please furnish the name of the State, County, Field or Plant and FPC area where the sale is made?

Question 12. What is the contract term?

Question 13. Does the contract, as amended or supplemented, contain take-or-pay provisions? If so, please explain the terms of the provision. If the contract contains accelerated take provisions, will you please state the period of time in years provided for accelerated takes and other provisions? On what page of this contract is the provision contained?

Question 14. Does the contract, as amended or supplemented, provide for advance payments, drilling contribution or other considerations? Please state the amount, the date of payment and the terms. On what page of this contract is the provision contained?

Question 15. Does the contract, as amended or supplemented, contain price escalation provisions? If so, what are they? On what page of this contract is the provision contained?

Question 16. Does the contract, as amended or supplemented, contain indefinite price provisions? If so, are favored-nation, redetermination, or renegotiation provisions involved? On what page of this contract is the provision contained?

Question 17. Is the gas sold under the contract (a) gas well or condensate gas, (b) casinghead gas, (c) residue gas derived from gas well gas, (d) residue gas derived from casinghead gas, or (e) a combination thereof? If the gas sold is a combination of types, will you please state what the types are; and their relative percentage by volume.

Question 18. Is the point of delivery of the gas (a) at or near the well, (b) at a central point in the field, or (c) at the tailgate of a plant? Will you please provide similar information with respect to point of measurement for billing purposes?

Questions Nos. 19 through 24 shall be asked with respect to contract delivery and quality provisions. For questions Nos. 19 through 24, please state on what page these provisions, if any, are contained in your contract.

Question 19. What are the maximum and minimum delivery pressures in psig?

Question 20. What is the permissible total sulphur content in grains per 100 cubic feet?

Question 21. What amount of entrained water in pounds per MMcf is acceptable?

Question 22. What percentage of carbon dioxide by volume is acceptable?

Question 23. Is there provision for downward Btu adjustments? If so, what is the figure in Btu per cubic foot for determining the adjustment downward?

Question 24. Is there provision for upward Btu adjustment? If so, what is the figure in Btu per cubic foot for determining the adjustment upward?

Questions Nos. 24 through 29 shall be asked with respect to actual conditions of delivery, if known.

Question 25. What is the actual average delivery pressure in psig?

Question 26. To the best of your knowledge, is the gas sweet or sour at the time of delivery based on the quality standards set forth in Opinion No. 468-A?⁴

Question 27. To the best of your knowledge, is the gas wet or dry at the time of delivery based on the quality standards set forth in Opinion No. 468-A?⁴

Question 28. To the best of your knowledge, what is the percentage of volume of carbon dioxide at the time of delivery?

Question 29. To the best of your knowledge, what is the average Btu figure in Btu's per cubic foot at the time of delivery?

Question 30. What is the current contract base price in cents per Mcf? On what page of your contract is this provision contained?

Question 31. What tax reimbursement, if any, in cents per Mcf is currently paid under the contract, as amended or supplemented? On what page of your contract is this provision contained?

Question 32. Will you please specify by type of charge and amount in cents per Mcf of each of those contractually provided additive or deductive charges currently applied?

Question 33. What is the total contract price in cents per Mcf received for the gas (inclusive of contract additive or deductive charges which were applied)? Is there a separate payment for extracted liquids? If so, what is the amount in cents per Mcf for such separate payment?

Question 34. What is the total volume of gas sold under this contract for the calendar year 1969? If this involves less than one full year's volume, will you please estimate the annual volume of gas to be sold? If more than one current price is received, show volumes sold at each price.

Question 35. Do the contracts which you have delivered to the Investigating Officer constitute all of the company's gas sales contracts dated on or after January 1, 1966, for its aforementioned intrastate sales of natural gas in excess of 100,000 Mcf annually under each contract involved, and for its intrastate plant residue gas contracts?

Question 36. Were you present at all times while the contracts and billing statements were examined (but not copied)?

Question 37. Do you acknowledge the return to you of each and every contract and billing statement?

Question 38. Do you have personal knowledge of any offers, requests or demands made on your company on or after January 1, 1966, for interstate sales of natural gas that were rejected or not accepted by your company?

Question 39. If you have this information, will you please state what the offers, requests or demands were and why they were rejected, if you know? Please identify your intrastate offers, by the contracts here, which were accepted over interstate offers, request or demands.

Question 40. If not, what is the name of the official of your company who has this information?

As a matter of convenience, an attorney or other representative may furnish these documents to the Investigating Officer here as business entries and all documents will be returned to him except the contract report and the responses to my interrogatories.

The individual company information received at this investigation will be kept in a confidential status by the Investigating Officer in accordance with the provisions of Section 8(b) of the Natural Gas Act.

Very truly yours,

JOHN W. WILLIAMS,
Investigating Officer.

* For South Louisiana sales, please use Op. Nos. 546 and 546-A quality standards.

ADDRESSEES

Amerada Hess Corp.
 American Petrofina Co. of Texas.
 Anadarko Production Co.
 Ashland Oil and Refining Co.
 Atlantic-Richfield Co.
 Austral Oil Co., Inc.
 Aztec Oil and Gas Co.
 Beleo Petroleum Corp.
 Beta Development Co.
 Cabot Corp.
 Calif. Co., Div., Chevron Oil Co.
 Champlin Petroleum Co.
 Chevron Oil Co., Western Division.
 Cities Service Co.
 Cities Service Oil Co.
 Coastal States Producing Co.
 E. Cockrell, Jr.
 Colorado Oil and Gas Corp.
 Coltexo Corp.
 Continental Oil Co.
 CRA, Inc.
 Diamond Shamrock Corp.
 Dorchester Gas Production Co.
 Exchange Oil and Gas Co.
 Forest Oil Corp.
 Frio-Tex Oil and Gas Co.
 General American Oil Co. of Texas.
 Getty Oil Co.
 Gulf Oil Corp.
 Hassie Hunt Trust.
 Helmerich & Payne, Inc.
 Houston Natural Gas Products Co.
 J. M. Huber Corp.
 Humble Oil and Refining Co.
 Hunt Oil Co.
 The Jupiter Corp.

Kerr-McGee Corp.
 Livingston Oil Co.
 Lone Star Producing Co.
 Mapco Production Co.
 Marathon Oil Co.
 Mobil Oil Corp.
 Monsanto Co.
 Natural Gas and Oil Corp.
 Northern Natural Gas Prod. Co.
 Pan American Petroleum Co.
 Phillips Petroleum Co.
 Placid Oil Co.
 Pennzoil Producing Co.
 Pennzoil United, Inc.
 Pubco Petroleum Corp.
 Joseph E. Seagram & Sons, Inc.
 Service Gas Products Co.
 Shell Oil and Gas Co.
 Signal Oil and Gas Co.
 Skelly Oil Co.
 Sohio Petroleum Co.
 Southern Natural Gas, Jt. Venture.
 Southern Union Gathering Co.
 Southern Union Production Co.
 Southwest Gas Prod. Co., Inc.
 Sun Oil Co.
 Tenneco Oil Co.
 Texaco Inc.
 Texas Gas Exploration Corp.
 Texas Oil and Gas Corp.
 Transocean Oil, Inc.
 The Superior Oil Co.
 Union Oil Co. of California.
 Union Texas Petroleum, Div. of Allied
 Chemical.
 Warren Petroleum Corp.

REPORT OF INTRASTATE SALE

[Reported at _____ psia for quality and at _____ psia for price]

1. Name of Seller _____
 2. Name of Purchaser _____
 3. Contract Dates: (a) Basic Contract _____
 4. Location:
 Your
 contract
 page
 No. _____ State _____
 _____ County _____
 _____ Field or Plant _____
 _____ FPC Area _____

 5. Contract Term (years) _____
 6. (a) Take or Pay (yes or no) Explain: _____
 _____ (b) Period of time (years) of accelerated take, if any. Explain: _____
 _____ 7. Does contract provide for advanced payment, drilling contribution, or other considerations (yes or no).
 _____ Identify type, amount, date of payment and summarize provision.
 _____ 8. Escalation Pattern _____ \$/Mcf per _____ years Indefinite price provision (yes or no) Favored
 Nation _____ Redetermination _____ Renegotiation _____

 9. Type of Gas¹ _____
 10. Point of Delivery² _____
 11. Payment Point³ _____

(b) Amends.

(c) Supps.

See footnotes at end of table.

12. Delivery and quality:

Item	Contract delivery and quality provisions	Actual conditions of delivery
A. Delivery pressure (psig)	Max.	Min. (Avg.)
B. Total sulphur	(Gr./100 cu. ft.)	(State Sweet or Sour) ⁴
C. Water	lbs/MMcf	(State Wet or Dry) ⁴
D. CO ₂ (% by Volume)	%	percent
E. BTU (Btu/cu ft.)	Adj. below Adj. above	(Avg.)
13. Current Contract Base Rate		¢/Mcf
14. Tax Reimbursement		¢/Mcf
15. Other Payments or Deductions:		

Item	Payment (¢)	Deduction (¢)
16. Current Total Price Received	¢/Mcf; additional liquids payment	¢/Mcf
17. Annual volumes (Actual 1969)	¢/Mcf at psia	

¹ Use more than one code if appropriate and indicate relative percent of volumes. G-Gas well or condensate gas C-Casinghead Gas. RG-Residue gas derived from gas well gas. RC-Residue gas derived from casinghead gas.

² W-at or near well., F-central point., T-Tailgate of Plant.

³ Point of measurement for billing purposes. (Use "Point of Delivery" Codes.)

⁴ To the best of your knowledge state the actual condition and quality of the gas at the time of delivery based on the quality standards set forth in Opinion Nos. 468-A, i.e. 20 grains total sulphur, 1 grain H₂S and 9 pounds of water. For S.La. sales, use Opinion Nos. 546 and 546A quality standards.

⁵ Inclusive of contract additive or deductive charges which were applied.

⁶ For recent sales, estimate annual volumes. If more than one current price is received, show volumes sold at each price.

^{*}If provided for in supplemental contractual agreement, identify with line 3.

APPENDIX B

DOCKET NO. R-389A—WEIGHTED AVERAGE RATES AND RANGE OF RATES FOR SOUTH LOUISIANA INTRASTATE SALES

[Cols. (c) to (h) in cents per thousand cubic feet]

Contracts dated	Annual volume ¹ (thou-san cubic feet at		Contract rate ²		Contract rate plus tax reimbursement ³		Current price ⁴	
	15,025	lb/in ² a	Weighted average ⁵	Range	Weighted average ⁵	Range	Weighted average ⁵	Range
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1966	55,343,591	19.38	14.0–22.3	19.58	14.0–22.3	19.57	14.0–22.3	
1967	21,178,226	19.49	14.2–22.4	19.58	16.5–24.45	19.58	16.5–24.45	
1968	59,594,990	20.21	14.75–30.0	20.21	14.75–30.0	20.49	16.2–30.0	
1969	10,438,812	19.34	17.5–23.68	20.32	19.5–23.68	20.38	19.5–23.68	
1970 (1st half)	72,028,165	22.98	20.5–30.0	22.98	20.5–30.0	22.98	20.5–30.0	
Total	218,583,784							

¹ Actual or estimated 1969 annual volumes as submitted by the producers.

² Rate stated in the contracts.

³ Rate stated in the contracts plus the tax reimbursement received.

⁴ Current price received inclusive of tax reimbursement, additive and deductive adjustments for gathering and Btu. It does not include any allowance with respect to take or pay contractual provisions.

⁵ The term "weighted average" is defined as the sum of: the annual volume of each contract multiplied by the applicable rate of each contract divided by the total annual volume of all contracts dated in the respective year.

Note: All rates, prices and volumes (Mcf) were reported at, or have been converted to, 15.025 lb/in²a.

APPENDIX C

Below 800:								10,404,362
Volume (thousand cubic feet)								
Weighted average current price								
(cents) ^b	10,404,362							
Range of current prices (cents)								
19.72	19.72							
16.0-21.5	16.0-21.5							
Not available: ^c								
Volume (thousand cubic feet)								
Weighted average current price								
(cents) ^b								
Range of current prices (cents)								
Subtotal	77,441,355							96,967,305
Btu not available: ^d								
Over 1,000:								
Volume (thousand cubic feet)								
Weighted average current price								
(cents) ^b								
Range of current prices (cents) ^e								
800 to 1,000:								
Volume (thousand cubic feet)								
Weighted average current price								
(cents) ^b								
Range of current prices (cents) ^e								
Below 800:								
Volume (thousand cubic feet)								
Weighted average current price								
(cents) ^b								
Range of current prices (cents) ^e								
Not available: ^d								
Volume (thousand cubic feet)								
Weighted average current price								
(cents) ^b	1,433,235							
Range of current prices (cents) ^e								
Subtotal	13,565,675							
Total	196,566,099							

¹ Gas containing less than 20 grains total sulphur and 1 grain H₂S per thousand cubic feet.

² Gas containing less than 7 pounds of water per thousand cubic feet.

³ The data was not submitted by the producer.

⁴ Gas containing more than 7 pounds of water per thousand cubic feet.

⁵ Current price received inclusive of tax reimbursement, additive, and deductive adjustments or gathering and Btu. It does not include any allowance with respect to take or pay contractual

provisions. The term "weighted average" is defined as the sum of: the annual volume of each contract in each category multiplied by the applicable rate of each contract divided by the total annual volume of all contracts in each category.

Note: All volumes and prices are at 15.025 lb./m³—Determinations as to sweet, dry, and wet were made by the producers—no sour gas or gas with Btu below 1,000 was reported.

SOUTH LOUISIANA APPENDIX "D"—DOCKET NO. R-389A
 COMPOSITE SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT AND TAKE OR PAY PROVISIONS
 [In thousands of cubic feet]

Contract dated	Annual volume	Term				Escalations				None (i)
		Below 5-yr 1 (a)	5 to 9.9 yr (b)	10 to 19.9 yr (c)	20 to 22 yr (d)	0.5/5 yr (e)	1/4 yr (f)	1 1/2 yr (g)	Other 2 (h)	
1966-----	55,343,391	174,648	23,581,506	31,587,437	870,000	24,071,465	1,753,225	2,497,251	26,151,650	
1967-----	21,178,226	3,245,012	102,612	7,137,340	2,014,444	3,633,815	10,816,909	1,605,532	3,057,726	
1968-----	59,594,950	588,608	42,245,534	9,760,838	42,245,534	1,812,683	48,801,923	330,000	8,650,384	
1969-----	10,438,812	1,423,600	1,864,997	2,900,000	4,250,215	4,876,704	185,000	825,000	3,242,508	1,309,600
1970-----	72,028,165	18,555,000	11,337,595	40,223,070	1,912,500	31,207,500	1,365,000	9,563,070	29,892,595	
Total-----	218,583,784	30,812,220	13,479,852	83,602,764	90,638,948	9,573,631	59,147,780	63,562,057	17,238,361	69,061,955
Type of gas 3										
G 4	C 5	RG 6	RC 7	Mixed 8	W 9	F 10	T 11	Take or pay 3		Accelerated take 3
(k)	(l)	(m)	(n)	(o)	(p)	(q)	(r)	(s)		(t)
1966-----	32,369,391	5,246,941	16,393,828	1,333,431	3,786,002	33,830,330	17,721,259	13,070,558		
1967-----	15,295,439	4,099,400	1,783,387	-----	752,481	18,642,338	1,783,387	14,436,685		
1968-----	12,447,046	718,046	40,354,014	63,706	6,012,178	212,258	26,763,691	32,619,041	2,761,154	
1969-----	9,428,812	185,000	2,273,525	2,331,880	825,000	1,676,704	8,762,108	57,507,434	43,466,684	
1970-----	44,972,045	2,331,880	10,770,715	11,680,000	-----	47,245,570	24,782,595	9,129,212	6,142,508	
Total-----	114,512,733	12,522,912	60,863,109	12,167,852	18,517,178	6,427,445	135,244,057	76,912,282	159,432,054	52,370,346

¹ Includes terms of 60 days, 1 year; year to year; 2 years; 2 years or when 9,125 Mcf has been delivered, whichever occurs first; 4 years indefinite; cancellable at will of either party and day to day.

² Includes escalations of 0.75% Mcf each 5 years; 0.4% Mcf each year until Jan. 1, 1970; 0.5% Mcf each 4 years; 0.3% Mcf every 5 years if reserves exceed 50,000 Mcf and 1.0% Mcf every 5 years if reserves exceed 100,000 Mcf; 1% Mcf each 10 years, 1% Mcf after 10 years; 1% Mcf at 2nd, 5th and 10th years of contract and to 25.0% Mcf on Jan. 1, 1976.

³ Classification made by producers.

⁴ Gas well gas.

⁵ Casinghead gas.

⁶ Residue from gas well gas.

⁷ Residue from casinghead gas.

⁸ The producers did not show the percentages of different types of gas. Consists of various combinations of all or some residue from gas well gas, residue from casinghead gas, gas well gas and casinghead gas.

⁹ W—at or near the well.

¹⁰ F—Central point.

¹¹ T—Tailgate of plant (net volumes only).

¹² Includes point of payment at both a central point and tailgate for 4,638,869 Mcf (percentage breakdown not available).

¹³ Includes point of payment for 711,236 Mcf at tailgate.

APPENDIX E

DOCKET NO. R-389A—SUMMARY OF INTRASTATE CONTRACTUAL ACCELERATED TAKE PROVISIONS

[Thousand cubic feet]

Contracts dated	Years of accelerated takes					Total
	2 ¹	3 ²	4 ³	Life of contract ⁴	Other ⁵	
(a)	(b)	(c)	(d)	(e)	(f)	(g)
1966						
1967	500,105				2,261,049	2,761,154
1968		812,095		25,504,904	17,149,685	43,466,684
1969			3,242,508	2,900,000		6,142,508
1970						
Total	500,105	812,095	3,242,508	28,404,904	19,410,734	52,370,346

¹ (a) $\frac{1}{2}$ -deliverability until reserves are determined within 2 years from 1st delivery at sellers option; (b) 1st 2 years 85 percent of deliverability; thereafter 1:5475 of reserves.

² (a) 3 years, 85 percent of delivery capacity; (b) 3 years, 80 percent of deliverability to Jan. 1, 1972.

³ (a) 4 years, buyer agrees to take or pay for a volume of gas equal to 10,000 M ft³ per day from each gas well capable of producing 12,500 M ft³ per day plus all oil well gas up to 1,000 M ft³ per day during the development period. The development period extends from initial deliveries until Jan. 1, 1974, or until the initial determination of gas reserves, whichever is earlier. After the development period, the take or pay volume is 1,000 M ft³ per day for each 7,300,000,000 cubic feet of reserves but not less than all of seller's oil well gas. Seller must maintain a deliverability of 125 percent of contract quantity.

⁴ (a) Term of sale—80 percent of seller's capacity; (b) 1 to 6,000 M ft³ contract quantity for entire term.

⁵ (a) $\frac{1}{2}$ deliverability until reserves are determined; (b) from first production until July 1, 1971; 85 percent of delivery capacity or 8,000 M ft³ per well; (c) Mar. 2, 1958, to July 1, 1971. Lesser of 85 percent of delivery capacity or 8,000 M ft³ per gas well; (e) If reserves in excess of 300 B ft³ are determined, Buyer has option to purchase such excess up to a total of B ft³ at a rate 1 MM ft³ for each 6,000 MM ft³ of additional reserves; (f) Until Jan. 1, 1972, 80 percent of deliverability then 1 to 5,475 reserve basis or 1,000 M ft³ whichever is greater; (g) Until Jan. 1, 1972, take or pay is 80 percent of deliverability (up to 10,000 M ft³ for well) up to a total of 40,000 M ft³.

APPENDIX B

DOCKET NO. R-389A—WEIGHTED AVERAGE RATE AND RANGE OF RATES FOR OTHER SOUTHWEST AREA INTRASTATE SALES

Contracts dated subarea	Cents per thousand cubic feet						
	Contract rate ²		Contract rate plus tax reimbursement ³			Current price ⁴	
	Annual volume ¹	Weighted average ⁵	Weighted Range	Weighted average ⁵	Range	Weighted average ⁵	Range
1966:							
Arkansas.....							
Louisiana, north.....	210,090	18.04	18.04	18.04	18.04	18.04	18.04
Mississippi.....							
Oklahoma.....	12,631,870	16.22	13.00-17.00	16.22	13.00-17.10	16.43	13.00-17.10
Texas Railroad District 5.....	6,770,624	16.47	14.20-17.00	16.59	14.20-17.04	16.59	14.20-17.04
Texas Railroad District 6.....	579,936	16.00	16.00	16.00	16.00	16.00	16.00
Texas Railroad District 9.....							
Subtotal and weighted average.....	20,192,520	16.31	13.00-18.04	16.36	13.00-18.04	16.49	13.00-18.04
1967:							
Arkansas.....	3,039,369	14.07	13.25-15.00	14.07	13.25-15.00	14.07	13.25-15.00
Louisiana, north.....	110,145	15.60	15.60	15.60	15.60	15.60	15.60
Mississippi.....							
Oklahoma.....	264,982	16.00	16.00	16.01	16.01	16.51	16.51
Texas Railroad District 5.....	378,135	16.00	14.20-17.00	16.02	14.20-17.04	16.02	14.20-17.04
Texas Railroad District 6.....	3,196,432	14.50	14.50	14.50	14.50	14.50	14.50
Texas Railroad District 9.....	1,718,007	17.00	17.00	17.64	17.64	17.64	17.64
Subtotal and weighted average.....	8,707,070	14.97	13.25-17.00	15.09	13.25-17.64	15.11	13.25-17.64
1968:							
Arkansas.....	968,952	15.00	15.00	15.00	15.00	14.69	14.25-15.00
Louisiana, North.....	384,687	18.82	18.82	18.82	18.82	18.82	18.82
Mississippi.....							
Oklahoma.....	7,690,280	15.87	15.00-16.00	15.87	15.01-16.00	15.73	15.00-15.84
Texas Railroad District 5.....	6,266,301	16.71	10.50-17.25	17.14	10.50-17.66	17.14	10.50-17.66
Texas Railroad District 6.....	435,460	16.54	16.00-17.00	16.83	16.62-17.00	16.83	16.62-17.00
Texas Railroad District 9.....							
Subtotal and weighted average.....	15,745,680	16.24	10.50-18.82	16.42	10.50-18.82	16.35	10.50-18.82
1969:							
Arkansas.....	180,000	16.00	16.00	16.00	16.00	16.00	16.00
Louisiana, north.....	2,713,986	21.45	21.45	21.45	21.45	21.45	21.45
Mississippi.....							
Oklahoma.....	487,158	15.49	15.00-16.50	15.49	15.00-16.50	16.06	15.0-18.27
Texas Railroad District 5.....	1,895,000	14.06	12.60-17.50	14.43	13.04-17.64	13.91	12.27-17.64
Texas Railroad District 6.....	1,559,000	16.52	15.50-17.00	17.14	16.08-17.64	17.14	16.08-17.64
Texas Railroad District 9.....							
Subtotal and weighted average.....	6,825,144	17.71	12.60-21.45	17.96	13.04-21.45	17.85	12.27-21.45
1970 (1st half):							
Arkansas.....	210,862	18.75	18.75	18.75	18.75	18.75	18.75
Louisiana, north.....							
Mississippi.....	1,010,726	20.96	20.96	20.96	20.96	20.96	20.96
Oklahoma.....	1,612,000	15.86	14.00-16.00	15.86	14.00-16.00	15.86	14.0-16.00
Texas Railroad District 5.....	1,000,000	18.50	18.50	18.50	18.50	18.50	18.50
Texas Railroad District 6.....	7,140,812	18.65	17.50-19.00	18.67	17.50-19.00	18.67	17.50-19.00
Texas Railroad District 9.....	902,600	19.75	19.75	19.75	19.75	21.53	21.53
Subtotal and weighted average.....	11,877,000	18.54	14.00-20.96	18.55	14.00-20.96	18.69	14.00-21.53
Grant total.....	63,347,414						

¹ Actual or estimated 1969 annual volumes as submitted by the producers. Annual volume at 14.65 lb/in³ per thousand cubic feet.

² Rate stated in the contracts.

³ Rate stated in the contract plus the tax reimbursement received.

⁴ Current price received inclusive of tax reimbursement, additive, and deductive adjustments for treating compression and Btu. It does not include any allowance with respect to take or pay contractual provisions.

⁵ The term "weighted average" is defined as the sum of: the annual volume of each contract multiplied by the applicable rate of each contract divided by total annual volume of all contracts dated in the respective year.

Note: All rates, prices, and volumes (thousand cubic feet) have been converted to 14.65 lb/in³.

OTHER SOUTHWEST—APPENDIX "C"—DOCKET NO. R-389A

COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR OTHER SOUTHWEST INTRASTATE SALES FOR CONTRACTS DATED IN 1966, 1967, 1968, 1969, and 1970

See footnotes at end of table.

OTHER SOUTHWEST—APPENDIX "C"—DOCKET NO. R-389A—Continued

COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR OTHER SOUTHWEST INTRASTATE SALES FOR CONTRACTS DATED IN 1966, 1967, 1968, 1969, and 1970

Below 500:							
Volume (thousands of cubic feet)							
Weighted average current price ⁶							
(cents)							
Range of current prices ⁶ (cents)							
Above 1,000:							
Volume (thousands of cubic feet)							
Weighted average current price ⁶							
(cents)							
Range of current prices ⁶ (cents)							
Not available: ⁵							
Volume (thousands of cubic feet)							
Weighted average current price ⁶							
(cents)							
Range of current prices ⁶ (cents)							
Subtotal.....	1,113,353	264,982	8,915,699	397,944	281,062	68,0130	1,275,000
							12,928,170
Blu not available: ⁵							
Above 1,000:							
Volume (thousands of cubic feet)							
Weighted average current price ⁶							
(cents)							
Range of current prices ⁶ (cents)							
500 to 1,000:							
Volume (thousands of cubic feet)							
Weighted average current price ⁶							
(cents)							
Range of current prices ⁶ (cents)							
Below 500:							
Volume (thousands of cubic feet)							
Weighted average current price ⁶							
(cents)							
Range of current prices ⁶ (cents)							
Not available: ⁵							
Volume (thousands of cubic feet)							
Weighted average current price ⁶							
(cents)							
Range of current prices ⁶ (cents)							
Subtotal.....	818,152	5,018,589	3,672,554	281,062	5,067,388	-	2,872,002
							8,708,743
Total.....	38,653,037	264,982	14,133,391	3,672,554	281,062	5,067,388	-
							1,275,000

Note: All volumes and prices are at 14.65 psia. Determinations as to sweet, sour, dry, and wet were made by the producers. No sour and dry gas was reported.

⁵ The data was not submitted by the producer.

⁶ Current price received inclusive of tax reimbursement, additive and deductive adjustments for gathering, treating, compression, and British thermal units. It does not include any allowance with respect to take or pay contractual provisions nor advance payments. The term "weighted average" is defined as the sum of the annual volume of each contract in each category multiplied by the applicable rate of each contract divided by the total annual volume of all contracts in each category.

1 Gas containing less than 20 grains total sulphur and 1 grain H₂S per Mcf.

2 Gas containing less than 9 pounds of water per Mcf.

3 Gas containing more than 9 pounds of water per Mcf.

4 Gas containing more than 20 grains total sulfur and 1 grain H₂S per Mcf.

DOCKET NO. R-389A.—COMPOSITE SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT, TAKE OR PAY PROVISIONS AND ADVANCE PAYMENTS
APPENDIX D
In thousands of cubic feet

	Contracts dated and subarea	Annual volume	Term			Escalation		
			5 yr and under 1	Over 5 to 9.9 yr	10-19.9 yr	20 yr +	1 cent per 4 yr	1 cent per 5 yr
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1966:								
Arkansas.								
Louisiana, North		210,090						210,090
Mississippi		---						
Oklahoma		12,631,870						
Texas Railroad:								
District 5		6,770,624	5,485,007					
District 6		579,936						
District 9								
Subtotal		20,192,520	5,485,007					
1967:								
Arkansas.								
Louisiana, North		3,039,369						
Mississippi		110,145	110,145					
Oklahoma								
Texas Railroad:								
District 5		264,982						
District 6								
District 9								
Subtotal		8,707,070	110,145					

1968:	Arkansas-	968, 952	-----	968, 952	-----	968, 952	-----
	Louisiana, North	384, 687	-----	384, 687	-----	384, 687	-----
	Mississippi	-----	-----	7, 690, 280	-----	7, 690, 280	-----
	Oklahoma	-----	-----	1, 323, 064	4, 608, 093	3, 330, 098	2, 540, 171
	Texas Railroad:	6, 266, 301	335, 144	435, 460	435, 460	236, 357	199, 103
	District 5	-----	-----	-----	-----	-----	-----
	District 6	-----	-----	-----	-----	-----	-----
	District 9	-----	-----	-----	-----	-----	-----
	Subtotal	15, 745, 680	335, 144	-----	1, 707, 751	13, 702, 785	396, 032
						11, 989, 330	3, 161, 215
							199, 103
1969:	Arkansas-	180, 000	-----	180, 000	-----	180, 000	-----
	Louisiana, North	2, 713, 986	-----	2, 713, 986	-----	2, 713, 986	-----
	Mississippi	-----	-----	-----	48, 158	-----	487, 158
	Oklahoma	487, 158	-----	-----	-----	-----	-----
	Texas Railroad:	1, 885, 000	-----	450, 000	1,435, 000	1, 885, 000	-----
	District 5	1, 559, 000	-----	-----	1, 559, 000	309, 000	1, 050, 000
	District 6	-----	-----	-----	-----	260, 000	-----
	District 9	-----	-----	-----	-----	-----	-----
	Subtotal	6, 825, 144	-----	-----	3, 163, 986	3, 661, 158	309, 000
						3, 602, 158	200, 000
							2, 713, 986
1970:	Arkansas-	210, 862	-----	210, 862	-----	210, 862	-----
	Louisiana, North	1, 010, 726	-----	1, 010, 726	-----	1, 010, 726	-----
	Mississippi	1, 612, 000	1, 500, 000	112, 000	-----	-----	1, 612, 000
	Oklahoma	-----	-----	-----	1, 000, 000	-----	-----
	Texas Railroad:	1, 000, 000	1, 095, 000	1, 000, 000	6, 045, 812	3, 490, 812	3, 650, 000
	District 5	7, 140, 812	902, 600	902, 600	902, 600	902, 600	-----
	District 6	902, 600	-----	-----	-----	-----	-----
	District 9	-----	-----	-----	-----	-----	-----
	Subtotal	11, 877, 000	2, 595, 000	1, 000, 000	1, 113, 462	7, 168, 538	2, 913, 326
						3, 701, 674	3, 650, 000
							1, 612, 000
	Grand total	63, 347, 414	8, 525, 296	1, 000, 000	6, 968, 134	46, 853, 984	3, 618, 358
						47, 502, 671	7, 591, 151
							4, 635, 234

See footnotes at end of table.

DOCKET NO. R 389A.—COMPOSITE SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT, TAKE OR PAY PROVISIONS AND ADVANCE PAYMENTS—Continued
 APPENDIX D—Continued
 [In thousands of cubic feet]

	Contracts dated and subarea	Type of gas ⁴			Delivery point ⁴			Advance payment			
		G ⁵	C ⁶	RG ⁷	RC ⁸	Mixed ⁹	W ₁₀	F ₁₁	T ₁₂	Take or pay ¹⁰	Accelerated take ¹¹
(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)	(r)	(s)	(t)
1966:											
Arkansas—											
Louisiana, North		210,090						210,090			210,090
Mississippi											
Oklahoma		8,038,394	294,476	2,438,361	1,860,639		1,253,214	7,079,656	4,299,000	12,093,498	
Texas Railroad:											
District 5		5,485,007			1,285,617				5,485,007	1,285,617	
District 6		579,936					579,936				579,936
District 9											
Subtotal		14,313,427	294,476	2,438,316	3,146,256		1,833,150	12,774,753	5,584,617	883,524	
1967:											
Arkansas—		3,039,369					3,039,369			2,073,779	
Louisiana, North		110,145					110,145				
Mississippi											
Oklahoma		264,982						264,982			264,982
Texas Railroad:											
District 5		242,428		3,196,432	135,707		242,428			135,707	242,428
District 6										3,196,432	3,196,432
District 9		1,718,007					1,718,007				
Subtotal		5,374,931		3,196,432	135,707		4,999,804	375,127	3,332,139	5,777,621	
1968:											
Arkansas—		968,952									
Louisiana, North			384,687							400,833	568,119
Mississippi											384,687
Oklahoma		7,690,280								7,690,280	

Texas Railroad:							
District 5	3,058,077	3,208,224					
District 6	435,450						
District 9							
Subtotal	12,152,769	3,592,911					
1969:							
Arkansas	180,000	2,433,229	280,757	180,000	2,713,986	180,000	
Louisiana, North							
Mississippi	487,158			487,158		487,158	
Oklahoma							
Texas Railroad:							
District 5	1,585,000	300,000		1,585,000	300,000	1,885,000	324,622
District 6	1,109,000	25,000	200,000	250,000	1,059,000	1,559,000	39,833
District 9							
Subtotal	3,361,158	250,000	2,933,229	280,757	2,502,158	250,000	4,072,986
						6,825,144	
1970:							
Arkansas		210,862			210,862		
Louisiana, North							
Mississippi			11,200	1,010,726		1,010,726	
Oklahoma				100,800	1,500,000		112,000
Texas Railroad:							
District 5	1,00,000				1,000,000		1,000,000
District 6	2,395,812		4,745,000		2,395,812		6,045,812
District 9	902,600				602,600		902,600
Subtotal	4,298,412	210,862	4,756,200	1,111,526	1,500,000	4,509,274	1,500,000
						5,867,726	7,948,412
Grand total	39,50,697	755,338	16,917,133	4,393,489	1,780,757	24,950,169	15,704,36
						22,632,889	47,341,598
							None
							324,622
							39,833

¹ Includes terms of indefinite; 6 months; 1 year with extension rights; 1 year then year to year.
² Includes terms of life of plant; economic life of leases, life of commercial production and 20 years and thereafter.
³ Includes escalations of 0.5 cents per thousand cubic feet each 5 years: 0.75 cents per thousand cubic feet end of first 5-year period only; 1 cent per thousand cubic feet on July 1, 1973; 1 cent per thousand cubic feet on July 1, 1978 and July 1, 1973; 1 cent per thousand cubic feet each 5 years after the 10th year and 1 cent per thousand cubic feet after 3½ years then 1 cent per thousand cubic feet each 5 years.

⁴ Classification made by producers.
⁵ Gas well gas.
⁶ Casinghead gas.

⁷ Residue from gas well gas.
⁸ Residue from casinghead gas.

⁹ The producers did not show the percentages of different types of gas. Consists of combinations of all or some residue from gas well gas, residue from casinghead gas, gas well gas and casinghead gas.

¹⁰ W—at or near the well.

¹¹ F—central point.

¹² T—lagerate of plant (net volumes only).

¹³ Includes an unspecified breakdown of 1,492,503 M ft³ which is delivered and paid for at a central point.

Note: All volumes were reported at or have been converted to 14.65 lb/m³.

APPENDIX E
DOCKET NO. R-389A.—SUMMARY OF INTRASTATE CONTRACTUAL ACCELERATED TAKE PROVISIONS
[In thousands of cubic feet]

180 percent deliverability not to exceed 3 MM ft³/d 1st year; 80 percent of deliverability not to exceed 1 MM ft³/d thereafter.

APPENDIX B
DOCKET NO. R-389A.—WEIGHTED AVERAGE RATE AND RANGE OF RATES FOR HUGOTON-ANADARKO INTRASTATE SALES

Contracts dated		Cents per thousand cubic feet							
(a)	(b)	Contract rate ¹			Contract rate plus tax reimbursement ²			Current price	
		Annual volumes ¹	Weighted average ³	Range (d)	Weighted average ⁴	Range (e)	Weighted average ⁵	Range (f)	Weighted average ⁷
1966:									
Kansas	8,493,669	18.43	13.00-19.00	18.43	13.00-19.00	14.75-17.00	18.43	13.00-19.00	14.75-18.67
Oklahoma	14,189,721	16.05	14.75-17.00	16.06	15.00-19.00	14.75-17.00	16.20	15.00-19.00	14.75-18.67
Texas Railroad, District 10	1,126,739	15.70	15.00-22.00	15.70	15.00-22.00	15.00-22.00	15.66	15.00-21.64	15.00-21.64
Subtotal and weighted average	23,810,129	16.88	13.00-22.00	16.89	13.00-22.00	13.00-22.00	16.97	13.00-21.64	
1967:									
Kansas	21,902,106	16.10	13.00-17.00	16.10	13.00-17.00	15.00-19.02	16.10	13.00-17.00	15.00-19.02
Oklahoma	21,433,131	16.09	15.00-19.00	16.02	15.00-19.00	15.00-19.02	16.07	15.00-19.02	15.00-17.42
Texas Railroad, District 10	1,833,638	16.35	15.00-17.00	16.35	15.00-17.00	15.00-17.06	16.51	15.00-17.42	
Subtotal and weighted average	24,168,875	16.02	13.00-19.00	16.02	13.00-19.02	13.00-19.02	16.09	13.00-19.02	
1968:									
Kansas	2,377,962	15.78	9.50-17.00	15.78	9.50-17.00	15.50-16.01	15.46	7.50-17.00	15.00-17.00
Oklahoma	11,886,247	15.60	15.00-16.00	15.60	15.00-16.00	15.00-16.01	15.66	15.00-17.00	15.00-17.00
Texas Railroad, District 10	5,615,850	17.96	15.00-18.25	17.96	15.00-18.25	15.00-18.25	17.85	15.00-18.25	15.00-18.25
Subtotal and weighted average	19,880,059	16.29	9.50-18.25	16.29	9.50-18.25	9.50-18.25	16.25	7.50-18.25	
1969:									
Kansas	141,894	15.00	15.00	15.00	15.00	15.00	15.00	15.00	15.00
Oklahoma	3,132,515	17.44	16.00-19.00	17.57	16.00-19.00	16.00-19.00	17.83	15.89-19.33	15.89-19.33
Texas Railroad, District 10	2,880,000	18.02	17.00-19.00	18.05	17.00-19.00	17.00-19.00	18.89	17.00-19.00	17.00-19.00
Subtotal and weighted average	6,154,409	17.66	15.00-19.00	17.74	15.00-19.00	15.00-19.00	17.32	15.00-19.33	
1970 (1st half):									
Kansas	3,670,000	21.08	20.00-23.00	21.08	20.00-23.00	20.00-23.00	21.39	20.00-24.04	
Oklahoma	9,642,300	21.83	18.00-23.52	21.83	18.00-23.52	18.00-23.50	21.73	18.00-23.50	
Texas Railroad, District 10									
Subtotal and weighted average	13,312,300	21.62	18.00-23.50	21.62	18.00-23.50	18.00-23.50	21.55	18.00-24.04	
Grand total	87,325,772	17.29	9.50-23.5	17.30	9.50-23.5	9.50-23.5	17.29	7.50-24.04	

¹ Actual or estimated 1969 annual volumes as submitted by the producer. Annual volumes at 14.65 lb./in.³ a per thousand cubic feet.

² Rate stated in the contracts.

³ All rates in the contracts plus tax reimbursement received.

⁴ Current price received inclusive of tax reimbursement, additive, and deductive adjustment for treating, compression, and Btu. It does not include any allowance with respect to take or pay contractual provisions.

⁵ The term weighted average is defined as the sum of: the annual volume of each contract multiplied by the applicable rate of each contract divided by the total annual volumes of all contracts dated in the respective year.

Note: All rates, prices and volumes (thousand cubic feet) were reported at, or have been converted to 14.65 lb./in.³.

HUGOTON-ANADARKO DOCKET NO. R-389A.—COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR HUGOTON-ANADARKO INTRASTATE SALES FOR CONTRACTS DATED IN
1966-70

	Sweet ¹ and dry ²			Sweet ¹ and wet ⁴			Sweet ⁵ and dry ²			Sweet ⁵ and wet ⁴			Not available ³		
	CO ₂ 0 to 3 percent	CO ₂ 0 to 3 percent	CO ₂ not available ³	CO ₂ 0 to 3 percent	CO ₂ not available ³	CO ₂ 0 to 3 percent	CO ₂ not available ³	CO ₂ 0 to 3 percent	CO ₂ not available ³	CO ₂ 0 to 3 percent	CO ₂ not available ³	Total	CO ₂ 0 to 3 percent	CO ₂ not available ³	
Btu pressure (a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	
Btu over 1,050;															
500 to 1,000;															
Volume (thousand cubic feet)	8,611,427	504,275	11,381,487												
Weighted average current price (cents) ⁵	17.10	16.01	14.58												
Range of current prices (cents) ⁶	15.00-20.2	16.01	15.00-18.67												
Under 500;															
Volume (thousand cubic feet)															
Weighted average current price (cents) ⁵															
Range of current prices (cents) ⁶															
Subtotal	8,611,427	504,275	11,635,733												
Btu between 1,000 to 1,050;															
500 to 1,000;															
Volume (thousand cubic feet)	7,098,132			9,063,220	218,011										
Weighted average current price (cents) ⁵	17.45			16.82	16.01										
Range of current prices (cents) ⁶	14.75-24.04			15.00-20.00	16.01										
Under 500;															
Volume (thousand cubic feet)	2,199,530	6,567,825	1,822,121												
Weighted average current price (cents) ⁵	21.87	19.00	16.85												
Range of current prices (cents) ⁶	15.00-22.50	19.00	15.06-19.00												
Subtotal	9,00,000														
Not available;															
Volume (thousand cubic feet)															
Weighted average current price (cents) ⁵	16.00														
Range of current prices (cents) ⁶	16.00														
Subtotal	10,197,662	6,567,825	10,885,341	218,011											

28,239,313

20,497,189

16,749,867

370,504

17.09

15.00-18.15

254,246

10,589,476

900,000

370,504

Btu under 1,000;
500 to 1,000;
Weighted average current price
(cents)⁶ 1,231,513

Range of current prices (cents)⁶ 15.27-15.88

Under 500;
Volume (thousand cubic feet)
Weighted average current price
(cents)⁶ 13,030,195

Range of current prices (cents)⁶ 20.02-17.0

Under 500;
Volume (thousand cubic feet)
Weighted average current price
(cents)⁶ 16,00-23,50

Range of current prices (cents)⁶ 16,00-23,50

Not available;
Volume (thousand cubic feet)
Weighted average current price
(cents)⁶ 17.64

Range of current prices (cents)⁶ 17.64

Subtotal 14,261,708

Btu not available:
500 to 1,000;
Volume (thousand cubic feet)
Weighted average current price
(cents)⁶ 11,398,231

Range of current prices (cents)⁶ 16.00-19.00

Under 500;
Volume (thousand cubic feet)
Weighted average current price
(cents)⁶ 172,107

Range of current prices (cents)⁶ 13.00-13.00

Not available;
Volume (thousand cubic feet)
Weighted average current price
(cents)⁶ 6,044,323

Range of current prices (cents)⁶ 15.00-16.01

Subtotal 172,107

Total 33,242,904

25,081,954

24,183,548

218,011

1,470,000

136,429

1,045,504

1,947,422

87,325,772

1,231,513

¹ Gas containing less than 20 grains total sulphur and 1 grain H₂S per thousand cubic feet.
² Gas containing less than 9 pounds of water per thousand cubic feet.

³ The data was not submitted by the producer.
⁴ Gas containing more than 9 pounds of water per thousand cubic feet.

⁵ Gas containing more than 20 grains total sulphur and 1 grain H₂S per thousand cubic feet.

⁶ Current price received inclusive of tax reimbursement, additive, and deductive adjustment for treating, compression, and Btu. It does not include any allowance with respect to take or pay contractual provisions. The term "weighted average" is defined as the sum of the annual volume of each contract in each category multiplied by the applicable rate of each contract divided by the total annual volume of all contracts in each category.

Note: All volumes and prices are at 14.65 lb/in³a—determinations as to sweet, sour, wet, or dry were made by the producers.

APPENDIX D

DOCKET NO. 389A—COMPOSITE SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT AND TAKE OR PAY PROVISIONS

[In thousands of cubic feet]

Contracts dated	Annual volume	Term						Escalation				C ⁶
		Below ² 10 years	10-19.9 ³ years	20 years	25 years	1 ⁴ /5 years	Other ⁴	None	G ⁵	(i)	(j)	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(l)
1966:	8,493,669	8,094,442	1,483,856	399,227	10,539,123	14,189,721	399,227	8,094,442	399,227	13,718,707	1,014,387	1,014,387
Kansas	14,189,721	1,483,856	2,166,742	10,539,123	14,189,721	112,352	112,352	1,014,387	1,014,387	1,014,387	1,014,387	1,014,387
Railroad District 10	1,126,739	1,126,739	1,014,387									
Subtotal	23,810,129	8,094,442	1,596,208	3,580,356	10,539,123	14,588,948	112,352	9,108,829	15,132,321			
1967:	902,106	902,106	902,106	902,106	902,106	902,106	345,278			902,106		
Kansas	21,433,131	21,433,131	364,774	21,068,357	21,087,853	21,087,853	345,278			19,521,086		
Railroad District 10	1,833,638	1,833,638	1,697,209	1,697,209	1,799,552	1,799,552	345,278			1,697,209		
Subtotal	24,168,875	136,429	2,061,983	21,970,463	22,789,511	22,789,511	345,278	1,034,086	22,120,401	136,429		
1968:	2,377,962	1,681,291	310,099	386,572	1,738,869	11,310,099	386,572	1,681,291	636,671			
Kansas	11,886,247	11,886,247	1,076,393	9,076,393	9,076,393	11,886,247	11,886,247	11,886,247	8,484,181	8,484,181	8,484,181	8,484,181
Railroad District 10	5,615,850	4,724,285	891,565	891,565	891,565	629,283	629,283	629,283	4,845,737	4,845,737	4,845,737	4,845,737
Subtotal	19,880,059	6,405,576	1,386,492	10,349,122	10,738,869	12,825,629	527,402	6,527,028	9,810,135	2,222,106		
1969:	141,894	141,894	141,894	141,894	141,894	141,894	141,894	141,894	141,894	141,894	141,894	141,894
Kansas	3,132,515	3,132,515	1,118,631	2,013,884	2,013,884	1,118,631	2,013,884	1,118,631	2,013,884	2,013,884	2,013,884	2,013,884
Railroad District 10	2,880,000	2,880,000	2,150,000	2,150,000	2,150,000	2,150,000	2,150,000	2,150,000	2,150,000	2,150,000	2,150,000	2,150,000
Subtotal	6,154,409	730,000	1,118,631	4,305,778	4,305,778	4,305,778	4,305,778	1,118,631	730,000	4,171,261	900,000	900,000
1970:	3,670,000	1,900,000	1,770,000	1,770,000	1,770,000	3,670,000	3,670,000	3,670,000	1,900,000	1,900,000	1,900,000	1,900,000
Kansas	9,682,300	9,075,000	567,300	567,300	567,300	567,300	567,300	567,300	9,075,000	9,075,000	9,075,000	9,075,000
Railroad District 10	13,312,300	10,975,000	2,337,300	2,337,300	2,337,300	4,237,300	4,237,300	4,237,300	3,187,300	3,187,300	3,187,300	3,187,300
Subtotal	87,325,772	26,341,447	6,163,314	42,543,019	12,277,992	58,747,166	2,103,663	26,474,943	54,421,148	3,258,535	3,258,535	3,258,535

	Type of gas ¹			Delivery point ¹			Accelerated take ¹			Advance payment		
	RG ⁷ (k)	RC ⁸ (l)	Mixed ⁹ (m)	W ¹⁰ (n)	F ¹¹ (o)	T ¹² (p)	Take or pay ¹ (q)	(r)	(s)	(t)	Amount (l)	
1966:												
Kansas	1,108,927	202,402	6,985,515	399,227	6,567,825	1,526,617	8,266,549					
Oklahoma	50,601	218,011	13,936,718	---	253,003	13,936,718						
Railroad District 10	112,352	1,104,387	---	---	112,352	111,392						
Subtotal	1,271,880	202,402	7,203,526	15,350,332	6,567,825	1,891,972	22,314,639					
1967:												
Kansas	1,912,045	21,238,131	902,106	195,000	21,238,131	260,658						
Oklahoma	---	1,833,638	---	---	799,552	799,552						
Railroad District 10	---	---	---	---	---	---						
Subtotal	1,912,045	23,973,875	195,000	---	22,298,341	22,298,341						
1968:												
Kansas	1,681,291	1,103,528	686,671	1,227,525	1,681,291	636,671						
Oklahoma	338,714	---	658,722	4,724,295	---	11,886,247						
Railroad District 10	2,833,571	1,890,714	891,565	---	---	---						
Subtotal	4,863,576	1,890,714	1,013,528	13,12,246,958	5,951,810	1,681,921	12,582,918					
1969:												
Kansas	353,148	---	141,894	---	1,660,736	1,118,631	353,148	141,894	3,132,515			
Oklahoma	730,000	---	2,150,000	---	2,150,000	730,000	1,470,000	1,470,000	1,470,000			
Railroad District 10	---	---	---	---	---	---	---	---	---			
Subtotal	1,083,148	---	3,952,630	1,118,631	1,083,148	4,744,409	1,083,148	4,744,409	1,083,148	4,744,409		
1970:												
Kansas	585,500	109,500	675,000	2,575,000	1,035,000	3,670,000	---	---	200,000	\$200,000		
Oklahoma	5,085,000	3,270,000	567,300	9,075,000	567,300	567,300	567,300	567,300	567,300	567,300		
Railroad District 10	---	---	---	---	---	---	---	---	---	---		
Subtotal	6,070,500	3,379,500	675,000	3,142,300	9,075,000	1,095,000	4,237,300	None	567,300	200,000		
Grand total	13,279,104	5,472,616	10,894,099	56,666,095	22,908,266	5,751,411	66,177,627	None	567,300	200,000		

¹ Producers did not show percentage or volumes of each type of gas. May consist of any combination of the four types shown.

¹⁰ At or near well.

¹¹ Central point in field.

¹² Tailgate of plant (net volumes only).

¹³ Includes payment points at both well and tailgate for 338,714 M ft³ and payment points at both central point and tailgate for 1,227,525 M ft³ (percentage breakdowns not available).

Note: No advance payments were reported by the producers.

¹ Classification by producers.
² Includes terms of: 6 months, 2 years, 4 years and 5 years.
³ Includes terms of: Life of lease, 15 years, life of booster station and 10 years.
⁴ Includes escalations of: 0.75¢ per thousand cubic feet each 5 years; 1.1¢ per thousand cubic feet each 5 years; 1.5¢ on 1-1-65; and 1.0¢ on Jan 1, 1975 and 5 year escalation amount to be determined.
⁵ Gas well gas.
⁶ Casinghead gas.
⁷ Residue from gas well gas.
⁸ Residual from casinghead gas.

DOCKET NO. R-389A.—SUMMARY OF INTERSTATE CONTRACTUAL ACCELERATED TAKE PROVISIONS
APPENDIX E
[In thousands of cubic feet]

1st 3 years 10,000 M ft³ per day per well per 640-acre unit

4 years—10,000 M ft³ per day minimum.

³ (a) Contract year commencing Jan. 1, 1975 delivery is 1,7300 of reserves or 80 percent of capability of well or allowable. (b) 3,000 M³/per day per well or 1,7300 greater subject to 150 percent deliverability. Reduce to 67 percent if not capable. (c) $\frac{2}{3}$ rd of deliverability or $\frac{2}{3}$ rd of the volume of gas seller can readily produce, whichever is the lesser. (d) MM³/per day per well for 1st 2 wells commencing not later than Jan. 1, 1971; 80 percent of deliverability of all wells commencing Nov. 1, 1971 for 5 years; thereafter 1,7300 of recoverable reserves. (e) Daily average of 3,000 M³/per day per well on 60-acre unit or 1,7300 of recoverable reserves—whichever is the greater.

APPENDIX B
DOCKET NO. R 389A.—WEIGHTED AVERAGE RATE AND RANGE OF RATES FOR TEXAS GULF COAST INTRASTATE SALES

Cents per thousand cubic feet

Contracts dated: Texas (a)	Annual volume ¹ (b)	Contract rate ²		Contract rate plus tax reimbursement ⁴		Current price ³	
		Weighted average ³ (c)	Range (d)	Weighted average ³ (e)	Range (f)	Weighted average ³ (g)	Range (h)
1966:							
Railroad, District No. 2	5,095,204	15.56	12.0-16.5	16.01	12.0-16.97	16.01	12.0-16.97
Railroad, District No. 3	142,205,439	16.46	14.00-18.00	16.49	14.0-18.07	16.44	12.25-18.07
Railroad, District No. 4	43,366,771	14.99	11.00-16.60	15.05	11.0-16.66	15.03	11.0-16.66
Subtotal and weighted average.	190,667,414	16.10	11.00-18.00	16.15	11.0-18.07	16.11	11.0-18.07
1967:							
Railroad, District No. 2	10,548,093	16.25	12.0-18.0	16.34	12.0-18.08	15.79	12.0-18.08
Railroad, District No. 3	180,135,357	17.73	10.0-19.9	17.87	10.025-19.97	17.85	10.025-19.97
Railroad, District No. 4	19,671,315	15.72	14.5-20.0	15.77	14.5-20.0	15.77	14.5-20.0
Subtotal and weighted average.	210,354,765	17.47	10.0-20.0	17.59	10.025-20.0	17.56	10.025-20.0
1968:							
Railroad, District No. 2	7,534,266	15.49	14.0-17.0	15.52	14.0-17.07	14.76	11.64-17.07
Railroad, District No. 3	39,560,928	18.12	14.0-19.5	18.16	14.04-19.60	18.18	14.0-19.60
Railroad, District No. 4	23,487,569	16.03	13.75-18.0	16.05	13.80-18.08	16.02	10.8-18.08
Subtotal and weighted average.	70,582,763	17.15	13.75-19.5	17.18	13.80-19.60	16.68	10.8-19.60
1969:							
Railroad, District No. 2	11,749,640	17.70	14.5-18.5	17.82	14.88-19.10	17.09	14.0-19.10
Railroad, District No. 3	84,160,914	19.75	14.0-21.0	20.30	14.0-21.08	20.61	14.0-22.13
Railroad, District No. 4	51,653,982	17.88	12.0-18.5	17.94	12.015-18.5	17.93	12.05-18.5
Subtotal and weighted average.	147,564,536	18.94	12.0-21.0	19.28	12.05-21.08	19.39	12.05-22.13
1970 (first half):							
Railroad, District No. 2	15,983,924	17.95	15.0-21.0	17.95	15.0-21.0	17.21	10.5-19.0
Railroad, District No. 3	14,359,816	19.27	15.0-20.75	19.27	15.0-20.75	19.53	15.0-24.38
Railroad, District No. 4	7,924,754	18.63	16.0-20.0	18.65	16.0-20.1	18.68	16.0-20.10
Subtotal and weighted average.	38,298,494	18.59	15.0-20.75	18.59	15.0-21.0	18.39	10.5-24.38
Grand total volume	657,467,972						

¹ Actual or estimated 1969 volumes as submitted by the producers. Annual volume at 14.65 lb/in³ per thousand cubic feet.
² Rate stated in contracts.
³ Current price received, inclusive of tax reimbursement, additive and deductive adjustments for gathering, treating, compression and Btu. It does not include any allowance with respect to take or pay contractual provisions nor advance payments.
⁴ Rate stated in contracts plus the tax reimbursement received.
⁵ The term "weighted average" is defined as the sum of the annual volume of each contract in each category multiplied by the applicable rate of each contract divided by the total annual volume of all contracts in each category.
Note: All rates, prices and volumes (thousand cubic feet) were reported at or have been converted to 14.65 lb/in³.

TEXAS GULF COAST—APPENDIX C—DOCKET NO. R-389A

COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR TEXAS GULF COAST INTRASTATE SALES UNDER CONTRACTS DATED IN 1966, 1967, 1968, 1969 and 1970

Btu/pressure (a)	Sweet 1 and dry 2			Sweet 1 and wet 3			Sweet 1 and wet 1			Total
	CO ₂ 0 to 3 percent (b)	CO ₂ over 3 percent (c)	CO ₂ not available 4 (d)	CO ₂ 0 to 3 percent (e)	CO ₂ over 3 percent (f)	CO ₂ not available 5 (g)	CO ₂ over 3 percent (h)	CO ₂ over 3 percent (i)		
Btu over 1,050:										
Over 1,000:										
Volume (thousands of cubic feet)-----	12,325,325	6,814,614	-----	-----	-----	-----	-----	-----	19,139,939	
Weighted average current price 6 (cents)-----	15.36	17.06	-----	-----	-----	-----	-----	-----	-----	
Range of current prices 7 (cents)-----	14.81-16.31	17.06	-----	-----	-----	-----	-----	-----	-----	
500 to 1,000:										
Volume (thousands of cubic feet)-----	75,066,065	9,912,650	-----	4,572,056	-----	-----	-----	-----	89,550,771	
Weighted average current price 6 (cents)-----	17.34	15.45	-----	-----	-----	-----	-----	-----	-----	
Range of current prices 6 (cents)-----	13.00-21.96	13.05-18.5	-----	14.50-19.00	-----	-----	-----	-----	-----	
Below 500:										
Volume (thousands of cubic feet)-----	1,248,202	1,670,088	-----	5,513,968	-----	-----	532,000	-----	8,964,258	
Weighted average current price 6 (cents)-----	14.93	18.30	-----	14.82	-----	-----	15.02	-----	-----	
Range of current prices 6 (cents)-----	14.00-19.57	14.06-22.07	-----	14.00-17.00	-----	-----	15.00-15.04	-----	-----	
Not available: ⁵										
Volume (thousands of cubic feet)-----	100,000	-----	-----	-----	-----	-----	-----	100,000	-----	
Weighted average current price 6 (cents)-----	19.0	19.0	-----	-----	-----	-----	-----	-----	-----	
Range of current prices 6 (cents)-----	19.0	19.0	-----	-----	-----	-----	-----	-----	-----	
Subtotal-----	88,739,592	18,397,352	-----	10,086,024	-----	-----	532,000	-----	117,754,968	
Btu 1,000 to 1,050:										
Over 1,000:										
Volume (thousands of cubic feet)-----	86,102,912	-----	-----	-----	-----	-----	-----	-----	86,102,912	
Weighted average current price 6 (cents)-----	18.20	-----	-----	-----	-----	-----	-----	-----	-----	
Range of current prices 6 (cents)-----	16.66-19.07	-----	-----	-----	-----	-----	-----	-----	-----	
500 to 1,000:										
Volume (thousands of cubic feet)-----	371,925,583	2,596,181	2,374,763	4,587,761	138,493	-----	-----	-----	381,622,781	
Weighted average current price 6 (cents)-----	17.83	17.63	17.41	14.27	18.08	-----	-----	-----	-----	
Below 500:										
Volume (thousands of cubic feet)-----	12,05-22,13	15.81-20.00	14,8053-20.0	10.50-17.70	18.08	-----	-----	-----	-----	
Weighted average current price 6 (cents)-----	14,310,129	-----	-----	537,512	7,036,193	-----	-----	-----	21,883,834	
Range of current prices 6 (cents)-----	16.30	11.03-18.07	11.00-16.17	14.51	17.49	-----	-----	-----	-----	

Note: All volumes and prices are at 14.65 psia. Determinations as to sweet, sour, wet and dry were made by the producers. No sour and dry gas was reported.

1 Gas containing less than 20 gr total sulfur and 1 gr H₂S per thousand cubic feet.

2 Gas containing less than 9 lb of water per thousand cubic feet.

⁸ Gas containing more than 9 lb of water per thousand cubic feet.

- The data was not submitted by the producer.
- Current price received inclusive of tax reimbursement, additive and deductive adjustments for gathering, treating, compression, and Btu. It does not include any allowance with respect to take or pay contractual provisions nor advance payments. The term "weighted average" is defined as the sum of the annual volume of each contract in each category multiplied by the applicable rate of each contract divided by the total annual volume of all contracts in each category.

DOCKET NO. R-389A—COMPOSITE TEXAS GULF COAST SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT AND TAKE OR PAY PROVISIONS

APPENDIX D

Contracts dated	Annual volume (thousand cubic feet)	Term						Escalation		
		Under 5 years ¹		5-9.9 years ²		10-19.9 years ³		20-29 years ⁴		Other ⁵
		(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
TEXAS										
1966:										
Railroad district No. 2	5,095,294	100	679	200,895	4,894,309	1,462	844	1,138,047	3,756,262	200,895
Railroad district No. 3	142,425,439	708	294	3,530,932	75,287,951	63,285	877	116,021	2,583,144	22,137,523
Railroad district No. 4	43,366,771			2,818,560	172,512	39,607	405	26,336	522	15,317,776
Total	190,667,414	808,973	6,610,387	75,460,463	107,787,591	27,859,366	132,477,181	6,890,031	23,440,836	1,101,418
1967:										
Railroad district No. 2	10,548,093	-----		231,408	2,891,058	1,425	627	8,060,818	2,255,867	231,408
Railroad district No. 3	180,135,387	-----		2,249,257	16,455,463	161,430	637	327,557	168,018,056	10,675,824
Railroad district No. 4	19,671,315	-----		1,947,109	-----	11,724	206	2,951,504	14,712,702	1,947,109
Total	210,354,765	-----		4,427,774	19,346,521	186,580	470	3,279,061	190,851,576	3,369,787
1968:										
Railroad district No. 2	7,534,266	-----		1,585,425	5,948,841	4,841,637	1,602,044	4,539,716	2,878,779	115,717
Railroad district No. 2	39,560,928	3,512,643	2,981,259	4,188,760	28,848,266	18,831,160	14,205,866	-----	-----	6,523,902
Railroad district No. 4	23,487,569	2,048,888	-----	12,901,295	8,537,416	9,155,621	10,851,035	1,432,055	-----	2,048,858
Total	70,582,763	5,591,501	2,981,259	18,675,480	43,334,523	27,986,781	29,596,617	4,310,834	8,688,531	
1969:										
Railroad district No. 2	11,749,640	126,290	3,600,875	3,180,838	4,841,637	1,602,044	3,107,838	3,312,593	3,727,165	
Railroad district No. 3	84,160,914	28,239,644	-----	1,261,883	54,639,407	-----	28,036,270	44,478,988	11,645,656	
Railroad district No. 4	51,653,982	-----		385,392	32,265,868	19,002,782	910,000	50,388,590	-----	385,392
Total	147,564,536	28,365,934	3,986,267	36,708,509	78,503,826	2,512,044	81,502,698	47,791,581	15,758,213	
1970:										
Railroad district No. 2	15,983,924	114,000	6,135,311	5,104,924	10,765,000	500,000	13,914,924	1,455,000	114,000	
Railroad district No. 3	14,389,810	365,000	6,135,311	1,265,000	6,624,505	3,850,000	2,912,000	1,377,505	300,311	
Railroad district No. 4	7,924,734	4,246,400	-----	2,334,690	1,343,664	2,334,690	1,343,664	-----	4,246,400	
Total	38,298,494	4,725,400	6,135,311	8,704,614	18,733,169	6,684,690	18,170,588	2,782,505	10,660,711	
Grand total	65,467,972	39,491,808	24,140,988	158,895,587	434,939,579	68,321,942	452,598,660	65,144,738	71,402,632	

Type of gas ⁶											Delivery point ⁸				Accelerated take ⁹	
Gas well ⁷		Casing head ⁸		Residue ⁹		Residue ¹⁰		Mixed ¹¹		Well ¹²		Field ¹³		Tailgate ¹⁴		Take or pay ¹⁰
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(S)	
TEXAS																
1966:	Railroad district No. 2	364,466	4,116,185	60,970,211	562,022	614,553	1,138,047	78,873,950	3,957,157	4,894,309	53,856,285	136,430,781	136,430,781	11,491,963	42,658,477	72,438,326
Railroad district No. 3	72,231,591	418,686	18,886,030	2,199,649	7,632,929	155,861	592,224	31,382,579	65,331,489	136,430,781	53,856,285	11,491,963	42,658,477	72,438,326		
Railroad district No. 4	24,314,820	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Total	96,910,877	418,686	83,982,486	952,022	8,403,343	15,1,660,271	16,108,226,529	80,780,614	183,983,567	126,294,591	-	-	-	-	-	-
1967:	Railroad district No. 2	9,472,153	3,398,548	145,787,567	1,047,091	1,075,940	2,286,343	8,261,750	147,685,332	169,223,041	2,357,748	3,409,783	3,409,783	19,671,315	25,557,874	215,126
Railroad district No. 3	28,387,313	-	-	-	-	1,514,838	1,350,673	31,099,352	7,745,109	1,947,109	19,671,315	25,557,874	215,126	-	-	-
Railroad district No. 4	16,009,306	-	-	-	-	683,516	180,000	17,544,206	-	-	-	-	-	-	-	-
Total	53,868,772	3,398,548	147,987,216	1,825,935	3,274,294	17,3,817,016	18,56,905,308	149,632,441	199,061,041	30,882,825	-	-	-	-	-	-
1968:	Railroad district No. 2	4,544,975	35,000	9,121,968	1,546,160	2,954,291	3,001,385	4,532,881	26,881,740	6,945,079	6,945,079	39,397,943	39,397,943	15,308,283	215,126	215,126
Railroad district No. 3	10,190,384	645,800	645,800	2,921,189	18,06,616	18,06,616	8,602,186	32,172,299	51,160,000	38,284,868	38,284,868	83,284,868	83,284,868	15,308,283	215,126	215,126
Railroad district No. 4	10,885,891	833,732	8,364,676	25,117,020	512,081	4,439,572	7,745,109	11,285,865	31,451,922	49,812,744	49,812,744	14,313,993	14,313,993	-	-	-
Total	25,591,250	1,514,532	17,486,644	4,467,349	21,522,988	10,11,517,659	20,20,897,499	38,167,605	61,651,305	3,624,919	-	-	-	-	-	-
1969:	Railroad district No. 2	9,175,802	2,281,838	28,239,644	23,136,971	969,096	10,620,544	160,000	11,158,846	27,375,050	27,375,050	31,092,798	31,092,798	5,711,201	8,089,505	8,089,505
Railroad district No. 3	30,032,241	2,752,058	182,200	25,117,020	689,962	180,000	4,980,000	15,212,060	31,451,922	49,812,744	49,812,744	7,224,754	7,224,754	1,883,354	2,040,000	2,040,000
Railroad district No. 4	25,424,800	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Total	64,632,843	5,216,096	53,416,664	689,962	23,608,971	21,6,854,913	22,58,004,903	82,704,720	144,256,636	41,688,993	-	-	-	-	-	-
1970:	Railroad district No. 2	12,175,000	3,514,924	114,000	180,000	2,338,400	13,540,524	105,000	14,336,524	-	-	-	-	-	-	-
Railroad district No. 3	5,097,505	837,000	648,705	224,110	7,582,496	3,582,505	5,096,110	5,711,201	8,089,505	8,089,505	8,089,505	8,089,505	8,089,505	8,089,505	8,089,505	8,089,505
Railroad district No. 4	6,741,400	-	1,183,354	-	-	1,400,000	4,641,400	-	-	-	-	-	-	-	-	
Total	24,013,905	4,351,924	1,946,059	224,110	7,762,496	7,320,905	22,23,278,034	7,699,555	29,650,783	1,095,000	-	-	-	-	-	-
Grand total	265,017,647	14,899,786	304,819,069	8,159,378	64,572,092	31,170,764	267,312,273	358,984,935	618,603,332	203,566,328	-	-	-	-	-	-

¹ Includes terms of: Daily; 3 months; 6 months; 1 year; 1½ years; 2.5 years and 4½ years.
² Includes terms of: 5 years; 7 years and 8 years.
³ Includes terms of: 10 years; 11 years 14 years; 15 years; 16 years and 19 years.

⁴ Includes life of lease and life of production terms.
⁵ Includes following types of escalation provisions: 0.5 cents per M ft each 5 years; 0.5 cents per M ft each 5 years then 1 cent per M ft after 5 years; 0.25 cents per M ft each 4 years; 0.2 cents per M ft each 5 years; 0.5 cents per M ft each 5 years then 1 cent per M ft after 2 years; 0.5 cents per M ft after 2 years; then 1 cent per M ft after 5 years; 0.25 cents per M ft after 5 years; then 1 cent per M ft each 2½ years; 0.5 cents per M ft after 3 years; 2.5 cents per M ft after 5 years; then 1 cent per M ft after 4 years and 2 cents per M ft after 5 years; 1 cent per M ft after 5 years; 0.75 cents per M ft each 5 years; then 1 cent per M ft after 1st 5 years; 1 cent per M ft after 5 years; 0.33 cents per M ft each 5 years; 0.75 cents per M ft each 5 years; then 1 cent per M ft after 1st 5 years; 1 cent per M ft after 5 years.

⁶ Classification by producers.
⁷ Gas well gas.
⁸ Casinghead gas.

⁹ Residue from gas well gas.
¹⁰ Residue from casinghead gas.
¹¹ Producers did not show percentages nor volumes of each type of gas. May consist of any combination of the 4 types shown.

¹² At or near well field.
¹³ Central point in field.
¹⁴ Tailgate or for which payment is made at or near well.

¹⁵ Includes 20,784,268 M ft³ for which payment is made at tailgate.
¹⁶ Includes 359,923 M ft³ for which payment is made at tailgate.

¹⁷ Includes 534,420,000 M ft³ for which delivery and payment is made at tailgate.

¹⁸ Includes 17,180,375 M ft³ for which payment is made at tailgate.

¹⁹ Includes 9,384,165 M ft³ for which payment is made at tailgate.

²⁰ Includes 180,000 M ft³ for which payment is made at central point in field.

²¹ Includes 5,911,060 M ft³ for which payment is made at tailgate.

²² Includes 224,110 M ft³ for which payment is made at tailgate.

²³ Includes 224,110 M ft³ for which payment is made at tailgate.

APPENDIX E
DOCKET NO. R-389A—TEXAS GULF COAST, SUMMARY OF INTRASTATE CONTRACTUAL ACCELERATED TAKE PROVISIONS
[In thousand cubic feet]

Contracts dated	Years of accelerated take												Total
	1½ ¹	1 ²	1½ ³	2 ⁴	2½ ⁵	3 ⁶	3½ ⁷	4 ⁸	5 ⁹	5½ ¹⁰	6 ¹¹	15 (life) ¹²	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)
1966													
1967	1,002,000												
1968	- 10,934,393												
1969													
1970													
Total	- 11,936,393	4,745,000	479,032	25,210,369	4,277,444	1,044,778	1,334,810	2,384,807	28,096,000	44,590,525	1,908,728	809,126	76,766,716
													203,538,328

¹(a) 10 MM ft³ per day for 1½ years—thereafter 1: 5,000 if reserves. (b) 6 months 30 MM ft³ per day, percent delivery capacity 1st year and 75 percent of delivery capacity thereafter. (b) 100 percent delivery capacity for first accounting period ending Jan. 1, 1971.

²(a) 1½ years: 80 percent of deliverability up to 6,000 MM ft³ per day, thereafter 1: 6,000 of reserves.

³(a) 2 years, (b) 2 years: 50 MM ft³ per day until Dec. 31, 1967; 45 MM ft³ per day from Jan. 1, 1968 to Jan. 1, 1969. (c) First 2 years. (d) Until June 1, 1972, 80 percent deliverability or 25,000 MM ft³ per day then 1: 6,000 of reserves. (e) 1st 2 years, 80 percent of deliverability; thereafter 1: 6,000 of reserves.

⁴(a) 2 years, 2 months, take an agreed to volume of about 15,000 MM ft³ per day, thereafter 1: 6,000 of reserves. (b) 3 years at 20,000 MM ft³ per day. (c) 3 years: 75 percent of deliverability up to 7,500 MM ft³ per day; thereafter 1: 6,500 of reserves.

⁵(a) For 3 years, 2 months, from each Anderson S. Dak. completion at 5,000 MM ft³ per day, (b) 10,000 MM ft³ per day to Apr. 1, 1974 and 1: 5,000 of reserves thereafter. (b) 10,000 MM ft³ per day for 1st 4 years and 1: 5,000 of reserves thereafter.

⁶(a) 3 years, (b) 3 years at 20,000 MM ft³ per day. (c) 3 years: 75 percent of deliverability up to 7,500 MM ft³ per day; thereafter 1: 6,500 of reserves.

⁷(a) For 3 years, 2 months, from each Anderson S. Dak. completion at 5,000 MM ft³ per day,

⁸(a) 10,000 MM ft³ per day to Apr. 1, 1974 and 1: 5,000 of reserves thereafter. (b) 10,000 MM ft³ per day for 1st 3 years and 1: 5,000 of reserves thereafter, 15,000 MM ft³ per day or 75 percent of

⁹(a) 1st 5 years, 5 MM ft³ per day per completion, thereafter, remaining reserve divided by remaining days. (b) 10,000 MM ft³ per day times the number of gas well completions available, whichever is the lesser, volume plus all casinghead gas up to 10,000 MM ft³ per day. The percents are 90 percent 1st 3 years, 25 percent next 2 years and 80 percent thereafter. (c) 1st 5½ years reduced Jan. 1, 1972 to remaining reserves divided by remaining days.

¹⁰(a) 5½ years after 6 years, take equals remaining reserves divided by remaining days of term.

¹¹(a) 6 years after 6 years, (b) 15 years (life).

¹²(a) Contract quantity average annual greater of 1: 6,500 or 20,000 MM ft³ per day for term. (b) Contract accelerates gradually from 2.47 percent of sellers' gas reserve in 1st year to 5.32 percent of sellers' gas reserve in 8th year and thereafter. (c) Lesser of 1: 3,650 or available line capacity, but not less than 1: 6,000 of reserves. (d) 2/3 of delivery capacity. (e) Greater of 20,000 MM ft³ per day or 1: 5,000 of reserves. (f) 75 percent of delivery capacity. (g) Total required takes from all wells within contract area for 1st 3 years 20,000 MM ft³ per day and thereafter, 15,000 MM ft³ per day or 75 percent of delivery capacity, whichever is the lesser.

APPENDIX B

DOCKET NO. R-389A.—WEIGHTED AVERAGE RATES AND RANGE OF RATES FOR MICHIGAN INTRASTATE SALES

Contracts dated (a)	Annual volume (b)	Cents per thousand cubic feet					
		Contract rate ² (c) Weighted average (d) Range		Contract rate plus tax reimbursement ⁴ (e) Weighted average (f) Range		Current price ⁵ (g) Weighted average (h) Range	
1966.....							
1967.....							
1968.....							
1969.....	1,350,399	33.0	33.0	33.0	33.0	38.0	35.70-43.72
1970 (1st half).....	3,840,000	36.0	36.0	36.0	36.0	36.0	36.0
Total.....	5,190,399						

¹ Actual or estimated 1969 annual volumes as submitted by the producer. Annual volume at 14.65 lb/in³a per thousand cubic feet.

² Rate stated in the contracts.

³ The term "weighted average" is defined as the sum of the annual volume of each contract multiplied by the applicable rate of each contract divided by the total annual volumes of all contracts dated in the respective year.

⁴ Rate stated in the contracts plus tax reimbursement received.

⁵ Current price received inclusive of tax reimbursement, additive adjustments for Btu. It does not include any allowance with respect to take or pay contractual provisions.

Note: All rates, prices and volumes (thousand cubic feet) were reported at, or have been converted to 14.65 lb/in³a. No intrastate sales were reported for 1966, 1967, and 1968.

APPENDIX C

DOCKET NO. R-389A.—COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR MICHIGAN INTRASTATE SALES FOR CONTRACTS DATED 1966-70

Btu/pressure (a)	Sweet ¹ and dry ²		
	CO ₂ 0 to 3 percent (b)	CO ₂ not available ³ (c)	Total
Btu over 1050:			
500 to 1000:			
Volume (thousand cubic feet).....	3,600,000	36.00	3,600,000
Weighted average current price ⁴ (cents).....		36.00	
Range of current prices ⁵ (cents).....		36.00	
Below 500:			
Volume (thousand cubic feet).....	1,350,399		1,350,399
Weighted average current price ⁴ (cents).....	38.00		
Range of current prices ⁵ (cents).....	35.70-43.72		
Subtotal.....	1,350,399	3,600,000	4,950,399
Btu not available:			
Not available: ³			
Volume (thousand cubic feet).....	240,000	240,000	
Weighted average current price ⁵ (cents).....	36.00		
Range of current prices ⁵ (cents).....	36.00		
Subtotal.....	240,000	240,000	
Total.....	1,350,399	3,840,000	5,190,399

¹ Gas containing less than 20 grains total sulfur and 1 grain H₂S per thousand cubic feet.

² Gas containing less than 9 pounds of water per thousand cubic feet.

³ The data was not submitted by the producers.

⁴ Current price received inclusive of tax reimbursement, additive adjustments for Btu. It does not include any allowance with respect to take or pay provisions. The term "weighted average" is defined as the sum of: the annual volume of each contract in each category multiplied by the rate of each contract divided by the annual volume of all contracts in each category.

Note: No sweet and wet, or sour and dry, or sour and wet was reported by producers.

APPENDIX D

DOCKET NO. R-389A—COMPOSITE SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT AND TAKE OR PAY PROVISIONS
[In thousand cubic feet]

Contracts dated (a)	Annual volumes (b)	Term (c)	Escalation			Type of gas 1			Delivery point 1			Take 1 or pay (l)	Accelerated take (m)
			10 yr (d)	20 yr (e)	1 cent (4 yr) (f)	G 2 (g)	C 3 (h)	Mixed 4 (i)	W 5 (j)	F 6 (k)			
1966													
1967													
1968													
1969													
1970													
Total	5,190,399	1,350,399	3,840,000	3,840,000	3,840,000	1,350,399	3,690,239	1,260,160	240,000	240,000	4,950,399	3,600,000	3,600,000

¹ Classification made by producers.² Gas well gas.³ Casinghead gas.⁴ The producers did not show the percentages of different types of gas. Consists of various combinations of gas well gas and casinghead gas.⁵ W—at or near the well.⁶ F—central point.⁷ Also central point deliveries with payment points at wellhead and central point in field.
Note: No residue from gas well gas, or residue from casinghead gas, or tailgate deliveries reported by producers.

APPENDIX E

DOCKET NO. R-389A.—SUMMARY OF INTRASTATE CONTRACTUAL ACCELERATED TAKE PROVISIONS
[In thousands of cubic feet]

Contracts dated: 1966 1967 1968	Years of accelerated take		Years of accelerated take		Total
	Other 1	Total	Other 1	Total	
Contracts dated: 1969 1970					
Total					

¹ 1st 2 years lesser of 80 percent of legally producible volume or well capability.

APPENDIX B
DOCKET NO. R-389A.—WEIGHTED AVERAGE RATES AND RANGE OF RATES FOR ROCKY MOUNTAIN INTRASTATE SALES¹

Contracts dated (a)	Gents per thousand cubic feet					
	Contract rate ³		Contract rate plus tax reimbursement ⁶		Current price ⁴	
Annual volume ² (b)	Weighted Average ⁴ (c)	Range (d)	Weighted average ⁴ (e)	Range (f)	Weighted average ⁴ (g)	
1966.....	1,039,282	15.09	11.51-16.90	15.15	11.51-16.90	15.10
1967.....	3,094,802	17.29	17.00-17.50	17.29	17.00-17.50	17.29
1968.....	741,902	11.57	9.75-12.00	11.57	9.75-12.00	11.57
1969.....	8,143,007	18.00	4.39-19.01	18.00	4.39-19.01	18.05
Total.....	13,018,993	17.23	4.39-19.01	17.24	4.39-19.01	17.26
						6.83-19.01

¹ Includes San Juan Basin, New Mexico, Colorado, Wyoming, Montana, and Utah.

² Actual or estimated 1969 annual volumes as submitted by the producers. Annual volume at 14.65 lb/in³a per thousand cubic feet.

³ Rate stated in the contracts.

⁴ The term "weighted average" is defined as the sum of: the annual volume of each contract multiplied by the applicable rate of each contract divided by the total annual volumes of all contracts dated in the respective year.

⁵ Rate stated in the contracts plus the tax reimbursement received.

⁶ Current price received, inclusive of tax reimbursement, additive, and deductive adjustments for compression. It does not include any allowance with respect to take or pay contractual provisions.

Note: All rates, prices, and volumes (thousand cubic feet) were reported, or have been converted to 14.65 lb/in³a.

DOCKET NO. R-389A COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR ROCKY MOUNTAIN AREA INTRASTATE SALES FOR CONTRACTS DATED IN 1966-70
APPENDIX C

Btu below 1000: 500 to 1,000:		225,386		225,386
Volume (thousand cubic feet)				
Weighted average current price ⁶ (cents)	11.51			
Range of current prices ⁶ (cents)	11.51			
Below 500:				
Volume (thousand cubic feet)				
Weighted average current price ⁶				
Range of current prices ⁶				
Not available: ⁵				
Volume (thousand cubic feet)				
Weighted average current price ⁶				
Range of current prices ⁶				
Subtotal		225,386		225,386
Btu not available: 500 to 1,000:				
Volume (thousand cubic feet)				
Weighted average current price ⁶				
Range of current prices ⁶				
Below 500:				
Volume (thousand cubic feet)				
Weighted average current price ⁶ (cents)				
Range of current prices ⁶ (cents)				
Not available: ⁵				
Volume (thousand cubic feet)				
Weighted average current price ⁶ (cents)				
Range of current prices ⁶ (cents)				
Subtotal				
Total	11,620,942	741,902		13,018,993

¹ Gas containing less than 20 grains total sulfur and 1 grain H₂S per thousand cubic feet.

² Gas containing less than 9 pounds of water per thousand cubic feet.

³ Gas containing more than 9 pounds of water per thousand cubic feet.

⁴ Gas containing more than 20 grains total sulfur and 1 grain H₂S per thousand cubic feet.

⁵ The data was not submitted by the producer.

⁶ Current price received inclusive of tax reimbursement, additive and deductive adjustment for compression. It does not include any allowance with respect to take or pay contractual provisions.

The term "weighted average" is defined as the sum of the annual volume of each contract in each category multiplied by the applicable rate of each contract divided by the total annual volume in each category.

Note: All volumes were reported at or have been converted to 14.65 lb/in³a. No 1967 intrastate sale was reported.

DOCKET NO. 389A—COMPOSITE SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT AND TAKE OR PAY PROVISIONS

[In thousand cubic feet]

Contracts dated	Annual volumes	Under 5 years ²	Term			Escalation			Type of gas ¹			Delivery point ¹			Accelerated take ¹		
			5-9.9 years ³	10-19.9 years ⁴	20-20.9 years ⁵	1 ⁶ /5 years	Other ⁶	None	C ⁷	C ⁸	RG ⁹	W ¹⁰	F ¹¹	T ¹²	Take ¹ or pay		
			(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)
1966	1,039,282		471,829	—	567,453	567,453	471,829	—	567,453	—	471,829	567,453	—	—	471,829	567,453	
1967																	
1968	3,094,802		—	3,094,802	2,205,155	889,647	—	1,292,211	—	1,812,591	—	1,282,211	1,812,591	—	3,094,802	—	
1969	741,902		—	741,902	—	600,000	141,902	141,902	600,000	141,902	600,000	141,902	141,902	—	141,902	—	
1970	8,143,007	7,486,858	102,560	553,589	—	—	8,143,007	—	—	656,149	7,486,858	—	656,149	7,486,858	—	102,560	—
Total	13,018,933	7,486,858	574,389	553,589	4,404,157	2,772,608	1,961,476	8,284,909	1,991,566	1,256,149	9,771,278	1,167,453	2,080,262	9,771,278	3,906,717	None	

¹ Classification by producers.² Term of 3 yr.³ Includes terms of 5 and 5.2 yr.⁴ Term of 10 yr.⁵ Includes terms of 20 yr and life of lease.⁶ Includes following types of escalation provisions: 0.34 to 0.86¢/Mft³ each year; 1.0¢/Mft³ on Nov. 1, 1974 and 1.10¢/Mft³, years vary.⁷ Gas well gas.⁸ Casinghead gas.⁹ Residue from gas well gas.¹⁰ W—at or near well.¹¹ F—central point in field.¹² T—Tailgate of plant (net volumes only).

Note: No advance payments were reported by the producers.

DOCKET NO. R-389A—WEIGHTED AVERAGE RATES AND RANGE OF RATES FOR TEXAS DISTRICT NO. 1 INTRASTATE SALES

Contract dated	Annual ¹ volume at 14.65 lb/in ^{2a} thousand cubic feet	Cents per thousand cubic feet					
		Contract rate ²	Weighted average ³	Range	Contract rate plus tax reim. ³	Weighted average ³	Current price ⁴
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1966	440,000	14.0	14.0	14.05	14.05	14.0	14.0
1967	1,175,551	14.4	12.5-15.0	14.10	12.54-15.05	14.10	12.54-15.05
1968							
1969	3,611,450	18.0	18.0	18.07	18.07	18.07	18.07
1970 (1st half)							
Total	5,227,001						

¹ Actual or estimated annual volumes as submitted by the producer.² Rate stated in the contracts.³ Rate stated in the contracts plus tax reimbursement received.⁴ Current price inclusive of tax reimbursement. It does not include any allowance with respect to take or pay contractual provisions.⁵ The term "weighted average" is defined as the sum of: the annual volume of each contract multiplied by the applicable rate of each contract divided by the total annual volumes of all contracts dated in the respective years.Note: All rates, prices and volumes (thousand cubic feet) were reported at or have been converted to 14.65 lb/in^{2a}.

APPENDIX C.—DOCKET NO. R-389A COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR TEXAS DISTRICT NO. 1 INTRASTATE SALES FOR CONTRACTS DATED IN 1966, 1967, 1968, 1969, AND 1970

Btu pressure	Sweet ¹ and dry ²		Sweet ¹ and wet ³		Total
	CO ₂ 0 to 3 percent	CO ₂ not available	CO ₂ 0 to 3 percent	CO ₂ not available	
(a)	(b)	(c)	(d)	(e)	(f)
Btu between 1,000-1,050:					
500 to 1,000:					
Volume (thousand of cubic feet)			440,000		440,000
Weighted average current price ⁴ (cents)			14.0		
Range of current prices ⁴ (cents)			14.0		
Below 500:					
Volume (thousand of cubic feet)	3,611,450				3,611,450
Weighted average current price ⁴ (cents)	18.07				
Range of current prices ⁴ (cents)	18.07				
Subtotal	3,611,450		440,000		4,051,450
Btu not available:					
Below 500:					
Volume (thousand of cubic feet)			447,918		447,918
Weighted average current price ⁴ (cents)			12.55		
Range of current prices ⁴ (cents)			12.55		
Not available: ⁵					
Volume (thousand of cubic feet)		727,633			
Weighted average current price ⁴ (cents)	15.06				727,633
Range of current prices ⁴ (cents)	15.06				
Subtotal	727,633		447,918		1,175,551
Total	3,611,450	727,633	440,000	447,918	5,227,001

¹ Gas containing less than 20 gr total sulfur and 1 gr H₂S per thousand of cubic feet.² Gas containing less than 9 lb of water per thousand of cubic feet.³ Gas containing more than 9 lb of water per thousand of cubic feet.⁴ Current price received inclusive of tax reimbursement. It does not include any allowance with respect to take or pay contractual provisions. The term "weighted average" is defined as the sum of: the annual volume of each contract in each category multiplied by the total annual volume of all contracts in each category.⁵ The data was not submitted by the producer.

Note: No sour and dry or sour and wet was reported by the producers.

DOCKET NO. R-389A—COMPOSITE SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT AND TAKE OR PAY PROVISIONS

[In thousand cubic feet]

Classification made by producers

Gas Well Gas

gas. Residue from casinghead

The producers did not show

W=at or near the well

DOCKET NO. R-389A—SUMMARY OF INTRASTATE CONTRACTUAL ACCELERATED TAKE PROVISIONS

[Thousand cubic feet]

1 20 yrs at 1:6500 of reserves.

APPENDIX B—DOCKET NO. R-389A WEIGHTED AVERAGE RATES AND RANGE OF RATES FOR CALIFORNIA INTRASTATE SALES

Contracts dated (a)	Annual volume at 14.73 psia (thousands of cubic feet) (b)	Contract rate ² (cents per thousand cubic feet)		Contract rate plus tax reimb. ³ (cents per thousand cubic feet)		Current price ⁴ (cents per thousand cubic feet)	
		Weighted average ⁵ (c)	Range (d)	Weighted average ⁵ (e)	Range (f)	Weighted average ⁵ (g)	Range (h)
1966	24,530,285	31.27	24.5 - 33.94	31.28	24.5 - 33.94	31.28	24.5 - 33.94
1967	7,682,793	29.19	18.0 - 31.0	29.21	18.0 - 31.02	30.00	18.0 - 32.50
1968	4,729,868	29.50	21.50 - 42.0	29.50	21.52 - 42.03	30.22	21.52 - 43.03
1969	8,931,823	31.27	25.0 - 35.22	31.30	25.0 - 35.25	31.26	25.0 - 35.25
1970 (1st half)	1,268,803	30.43	25.0 - 31.0	30.43	25.0 - 31.0	30.43	25.0 - 31.0
Total			47,153,572				

Note: All rates, prices and volumes (thousands of cubic feet) were reported at, or have been converted to 14.73 psia.

¹ Actual or estimated 1969 annual volumes as submitted by the producers.

² Rate stated in the contracts.

³ Rate stated in the contracts plus the tax reimbursement received.

⁴ Current price received inclusive of tax reimbursement, additive and deductive adjustments for gathering, facility charges and British thermal units. It does not include any allowance with respect to take or pay contractual provisions.

⁵ The term "weighted average" is defined as the sum of the annual volume of each contract multiplied by the applicable rate of each contract divided by the total annual volume of all contracts dated in the respective year.

APPENDIX C

CALIFORNIA DOCKET NO. R-389A—COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR CALIFORNIA INTRASTATE SALES FOR CONTRACTS DATED IN 1966, 1967, 1968, 1969 AND 1970

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	Sweet ¹ and dry ²						Sweet ¹ and wet ³						Not available ⁴						
	CO ₂ 0 to 3 percent		CO ₂ over 3 percent		CO ₂ not available ⁴		CO ₂ 0 to 3 percent		CO ₂ over 3 percent		CO ₂ not available ⁴		CO ₂ 0 to 3 percent		CO ₂ over 3 percent		CO ₂ not available ⁴		
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)	(r)	(s)	(t)
Btu over 1,050:																			
500 to 1,000:																			
Volume (thousand cubic feet)																			
Weighted average current price ⁵																			
(cents)																			
Range of current prices ⁵ (cents)																			
Below 500:																			
Volume (thousand cubic feet)																			
Weighted average current price ⁵																			
(cents)																			
Range of current prices ⁵ (cents)																			
Subtotal																			
Btu 1,000 to 1,050:																			
500 to 1,000:																			
Volume (thousand cubic feet)																			
Weighted average current price ⁵																			
(cents)																			
Range of current prices ⁵ (cents)																			
Below 500:																			
Volume (thousand cubic feet)																			
Weighted average current price ⁵																			
(cents)																			
Range of current prices ⁵ (cents)																			
Subtotal																			
Btu over 1,050:																			
500 to 1,000:																			
Volume (thousand cubic feet)																			
Weighted average current price ⁵																			
(cents)																			
Range of current prices ⁵ (cents)																			
Below 500:																			
Volume (thousand cubic feet)																			
Weighted average current price ⁵																			
(cents)																			
Range of current prices ⁵ (cents)																			
Subtotal																			
Total																			
	3,630,343		877,009		1,400,101		6,788,779										954,145		13,650,377

APPENDIX D

DOCKET NO. R-389A.—COMPOSITE SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT, AND TAKE OR PAY PROVISIONS
[In thousand cubic feet]

Contracts dated	Term										Escalations		
	Annual volume	Below 5 yr ²			5 to 9.9 yr			10 to 19.9 yr			20 to 21 yr ³		
		(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)				
1966	24,530,285	116,739	1,770,370	12,740,487	9,902,689	21,334,580	1,986,174	1,199,521					
1967	7,692,793	233,787	-----	7,459,006	7,173,623	285,383							
1968	4,729,868	877,009	-----	1,501,762	3,131,432	1,349,770	248,666						
1969	8,931,823	226,687	-----	3,457,136	5,248,000	3,982,136	4,723,000	226,687					
1970 (1st half)	1,268,803	120,000	-----	1,148,803	-----	-----	-----	1,268,803					
Total	47,153,572	1,574,222	1,770,370	18,848,188	24,960,792	35,621,781	8,354,327	3,177,464					
Contracts dated	Type of gas ⁴										Delivery point ⁴		
	G ⁵	C ⁶	RG ⁷	RC ⁸	Mixed ⁹	W ¹⁰	F ¹¹	T ¹²			Take or pay ¹		Accelerated take ¹
	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)	(r)			
1966	13,895,040	87,481	9,436,348	1,111,416	13,20,486,423	2,273,492	1,770,370	15,665,410	570,849				
1967	7,195,712	233,787	253,294	6,935,069	494,430	263,294	6,747,836	5,134,259					
1968	3,660,193	-----	877,009	2,024,092	1,648,767	877,009	4,481,202	144,243					
1969	248,666	-----	-----	5,474,687	133,457,136	-----	8,705,136	-----					
1970 (1st half)	311,142	-----	-----	1,268,803	-----	-----	1,268,803	-----	1,148,803	-----			
Total	34,584,429	793,595	87,481	10,576,651	1,111,416	36,369,074	7,873,825	2,910,673	36,748,387	5,849,351			

¹ Includes escalations classified by producers as renegotiation; redetermination and renegotiation and indefinite pricing. No periodic escalations were reported by the producers.

² Includes terms of 120 days; cancel any June 30 on 60 days prior notice; 1 year; 1 year, terminate either party on 30 days notice.

³ Includes terms of life of lease.

⁴ Classification made by producers.

⁵ Gas well gas.

⁶ Casinghead gas.

⁷ Residue from gas well gas.

⁸ Residue from casinghead gas.

⁹ The producers did not show the percentages of different types of gas. Consists of various combinations of all or some residue from gas well gas, residue from casinghead gas, gas well gas and casinghead gas.

¹⁰ W—At or near the well.

¹¹ F—Central point.

¹² T—Tailgate of plant (net volumes only).

¹³ Includes an unspecified breakdown of 1,996,174 M ft³ which has tailgate as delivery and payment points; and an unspecified breakdown of 8,148,136 M ft³ which has both a central point and tailgate as delivery and payment points.

¹⁴ Includes volumes delivered at tailgate, no breakdown available.

APPENDIX E

DOCKET NO. R-389A.—SUMMARY OF CALIFORNIA INTRASTATE CONTRACTUAL ACCELERATED TAKE PROVISIONS

[In thousands of cubic feet]

Contracts dated	Years of accelerated take		
	1 year ¹	Other ²	Total
1966.....	570,849	5,134,259	570,849
1967.....		5,134,259	5,134,259
1968.....		144,243	144,243
1969.....			
1970.....			
Total.....	570,849	5,278,502	5,849,351

¹ Each contract year—1 year—emergency delivery rates and additional call gas can be taken within the contract limits.² (1) During development period which shall not extend beyond Jan. 1, 1971, buyer agrees to take or pay for a volume of gas equal to the lesser of (a) 300 M ft³/d per well or (b) 33½ percent of the deliverability of such well. After the development period and for the 1st and contract years the daily volume of gas shall be the lesser of (a) ½ of 51 percent of seller's reserves or (b) 33½ percent of seller's deliverability. (2) During development period which shall not extend beyond July 1, 1970, buyer agrees to take or pay for a volume of gas equal to the lesser of (a) 500 M ft³/d for each producing zone of each well or (b) 33½ percent of the well deliverability of such well. After development period and for the 1st 8 contract years, buyer agrees to take or pay for a daily volume of gas equal to the lesser of (a) ½ of 5 percent of seller's gas reserves or (b) 33½ percent of seller's deliverability.Note: All volumes are at 14.73 lb/in²a.

APPENDIX B

DOCKET NO. R-389A—WEIGHTED AVERAGE RATES AND RANGE OF RATES FOR PERMIAN BASIN INTRASTATE SALES

[Per thousand cubic feet]

Contracts dated	Contract rate ^f		Contract rate plus tax reimbursement ^g			Current price**	
	Annual volume at 14.65 lb/in ² a*	Weighted average, cents—	Range, cents	Weighted average, cents—	Range, cents	Weighted average, cents—	Range, cents
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1966.....	29,036,920	16.97	13.65–19.25	17.02	13.65–19.33	17.12	13.17–20.31
1967.....	16,766,834	16.28	15.24–22.00	16.32	15.24–22.00	16.32	15.24–22.00
1968.....	136,092,726	17.11	13.00–18.30	17.16	13.05–18.30	12.23	6.10–18.30
1969.....	146,350,242	18.33	12.00–20.25	18.41	12.00–20.33	14.57	8.26–23.99
1970 (1st half).....	103,116,234	19.83	18.00–20.50	20.25	18.07–20.50	21.47	15.60–23.07
Total.....	431,362,956						

Note: All rates, prices and volumes have been converted to 14.65 lb/in²a.

*Actual or estimated 1969 annual volumes as submitted by the producers.

†Rate stated in the contracts. For contracts with the rate on a million Btu basis the rates used were for 1,000 Btu gas.

‡Rate stated in the contract plus the tax reimbursement received. For contracts with the rate on million Btu basis the rates used were for 1,000 Btu gas.

**Current price received inclusive of tax reimbursement, additive and deductive adjustments for gathering, treating, fuel and shrinkage, and Btu. It does not include any allowance with respect to take or pay contractual provisions or to advance payments.

††The term "weighted average" is defined as the sum of: the annual volume of each contract multiplied by the applicable rate of each contract divided by total annual volume of all contracts dated in the respective year.

APPENDIX C

PERMIAN BASIN DOCKET NO. R-389A.—COMPOSITE OF ACTUAL DELIVERY CONDITIONS AND CURRENT PRICES FOR PERMIAN BASIN INTRASTATE SALES FOR CONTRACTS DATED IN 1966, 1967,
1968, 1969, AND 1970

Btu/pressure (a)	Sweet ¹ and dry ²			Sweet ¹ and wet ³		
	CO ₂ 0-3 percent (b)	CO ₂ over 3 percent (c)	CO ₂ not available ³ (d)	CO ₂ 0-3 percent (e)	CO ₂ over 3 percent (f)	CO ₂ not available ³ (g)
Blu over 1050:						
Over 1,000:						
Volume	55,166,353			772,228	1,759,380	
Weighted average current price (cents) ⁶	23.02			19.87	20.29	
Range of current prices (cents)	16.26-23.07			16.5-23.99	20.29	
500-1,000:						
Volume	4,546,536			2,865,000		
Weighted average current price (cents) ⁶	17.27			20.48		
Range of current prices (cents)	17.0-17.64			18.30-20.79		
Below 500:						
Volume	3,454,006			7,731,089	6,823,965	
Weighted average current price (cents) ⁶	14.95			14.30	19.70	
Range of current prices (cents)	12.0-22.0			14.14-15.70	12.0-26.31	
Not available: ³						
Volume					470,886	
Weighted average current price (cents) ⁶					19.74	
Range of current prices (cents)					19.74	
Subtotal	63,166,955			11,368,317	1,759,580	7,294,831
Blu between 1,000-1,050:						
Over 1,000:						
Volume						
Weighted average current price (cents) ⁶						
Range of current prices (cents)						
500-1,000:						
Volume	44,495,021				414,475	
Weighted average current price (cents) ⁶	16.82				13.65	
Range of current prices (cents)	13.17-17.77				13.65	
Below 500:						
Volume	3,297,637				279,470	
Weighted average current price (cents) ⁶	16.00				18.09	
Range of current prices (cents)	16.00				18.09	

Not available: ³					
Volume					
Weighted average current price (cents) ⁶					
Range of current prices (cents)					
Subtotal					693,945
Blu less than 1,000:					
Over 1,000:					
Volume		1,370,175			201,000
Weighted average current price (cents) ⁶		16.39			15.60
Range of current prices (cents) ⁶		16.28-16.56			15.60
500-1,000:					
Volume					
Weighted average current price (cents) ⁶		626,704			544,518
Range of current prices (cents) ⁶		17.65			15.78
Below 500:					
Volume					
Weighted average current price (cents) ⁶		17.65			15.60-16.00
Range of current prices (cents) ⁶					
Not available: ³					
Volume					
Weighted average current price (cents) ⁶					
Range of current prices (cents) ⁶					
Subtotal					
Blu not available: ³					
500-1,000:					
Volume		314,530			
Weighted average current price (cents) ⁶		15.70			
Range of current prices (cents) ⁶		15.70			
Not available: ³					
Volume					
Weighted average current price (cents) ⁶					
Range of current prices (cents) ⁶					
Subtotal					
Total		112,108,206			108,000
		314,530			
		314,530			
		12,807,780			
		2,636,726			
					7,402,831

See footnotes at end of table p. 1205.

Not available: ³							
Volume							
Weighted average current price (cents) ⁶							
Range of current prices (cents) ⁶							
Subtotal							
Blu less than 1,000:							
Over 1,000:							
Volume							
Weighted average current price (cents) ⁶							
Range of current prices (cents) ⁶							
500-1,000:							
Volume							
Weighted average current price (cents) ⁶							
Range of current prices (cents) ⁶							
Below 500:							
Volume							
Weighted average current price (cents) ⁶							
Range of current prices (cents) ⁶							
Not available: ³							
Volume							
Weighted average current price (cents) ⁶							
Range of current prices (cents) ⁶							
Subtotal							
Blu not available: ³							
500-1,000:							
Volume							
Weighted average current price (cents) ⁶							
Range of current prices (cents) ⁶							
Not available: ³							
Volume							
Weighted average current price (cents) ⁶							
Range of current prices (cents) ⁶							
Subtotal							
Total							

1 Gas containing less than 20 grains total sulfur and 1 grain H₂S per thousand cubic feet.

2 Gas containing less than 9 pounds of water per thousand cubic feet.

3 The data was not submitted by the producer.

4 Gas containing more than 9 pounds of water per thousand cubic feet.

5 Gas containing more than 20 grains total sulfur and 1 grain H₂S per thousand cubic feet.

⁶ Current price received inclusive of tax reimbursement, additive and deductive adjustments for gathering, treating, fuel and shrinkage, and Blu. It does not include any allowance with respect to take or pay contractual provisions or to advance payments. The term weighted average is defined as the sum of: the annual volume of each contract in each category multiplied by the applicable rate of each contract divided by the total annual volume of all contracts in each category.

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APPENDIX D.—PERMIAN BASIN, DOCKET NO. R-389A COMPOSITE SUMMARY OF CONTRACT TERM, ESCALATION PATTERN, TYPE OF GAS, DELIVERY POINT, TAKE OR PAY PROVISIONS AND ADVANCE PAYMENTS

[In thousands of cubic feet]

Contracts dated	Term 1										Escalation 3					
	Annual volume at 14.65 psia		Under 20 yr		20 to 21 yr		Over 21 yr ²		0.2 cents per year Mcf		1 cent per 4 years Mcf		1 cent per 5 years Mcf		Other ⁴	
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)
1966	29,036	920	16,027	591	2,827	581	10,181	748	-----	26,786	138	1,478	154	772	628	
1967	16,766	834	1,262	129	15,504	705	-----	-----	16,487	364	133	612	972	2,479	754	
1968	136,082	726	1,364	081	134,728	645	-----	-----	134,728	645	59,326	748	11,613	735	7,380	964
1969	146,330	242	22,477	774	123,772	468	5,330	665	62,499	000	102,807	234	309,000	-----	-----	-----
1970	103,116	234	97,370	330	5,745	904	5,745	904	5,330	665	165,306	234	236,721	952	15,571	643
Total	431,362	956	41,131	575	374,303	729	15,927	652	5,330	665	165,306	234	236,721	952	8,433	026

Contracts dated	Type of gas ⁵										Delivery point ⁶					Advance payment				
	G.		C ⁷		RG ⁸		RC ⁹		Mixed ¹⁰		W ¹¹		F ¹²		T ¹³	Take of pay	Accelerated take	Amount		
	(l)	(k)	(l)	(m)	(n)	(o)	(p)	(q)	(r)	(s)	(t)	(u)	(v)	(w)	(x)	(y)	(z)	(aa)		
1966	2,497	835	886	892	14,778	889	777	836	10,095	468	313	990	11,13	166	205	15,556	725	28,264	292	
1967	6,266	627	30	744	169	993	279	470	5,342	683	994	688	10,469	463	15,812	146	14,393	897		
1968	127,141	944	349	606	8,001	176	75	266	390	59	134	475	1,691	861	135	477	075	129,000	188	
1969	117,304	935	697	049	19	517	744	8,830	514	73	620	842	45	767	142	26,962	258	139,466	278	
1970	103	116	234	-----	-----	-----	-----	-----	101	356	654	1,759	580	-----	-----	103	116	234	-----	
Total	356	327	575	1,614	635	45,436	232	9,887	820	18,096	644	255	900	559	120	782	090	54,680	307	
																		422,136	025	
																		370,109	352	
																		127,459	784	
																		11	543	482

¹ Includes terms of 1, 3, 5, 10, 14½, 15, 16½, 18, and 19 years.

² Includes terms of 23 and 25 years.

³ For contracts with the rate on an NMW basis the escalations used was for 1,000 Btu gas.

⁴ Includes escalations of 1.47 cents per 5 years, 1.5 cents in 1973 and 1 cent in 1978, .5 cents per years, 1 cent in 1974, 1 cent in 1971, 1 cent in 1973, 0.5 cent in 1978, 1.5 cents in 1973 and 1 cent in 1978, and 0.75 cent in 1971 and then 1 cent per 5 years.

⁵ Classification made by producers.

⁶ Gas well gas.

⁷ Casinghead gas.

⁸ Residue from gas well gas.

⁹ Residue from casinghead gas.

¹⁰ No breakdown available. Consists of residue from gas well gas, residue from casinghead gas, gas well gas, and casinghead gas.

¹¹ W—at or near the well.

¹² F—central point.

¹³ T—tailgate of plant (not volumes only).

¹⁴ Includes point of payment for 4,031,312 Mcf at tailgate of plant or wellhead.

APPENDIX "L"
PERMIAN BASIN DOCKET NO. R-389A—SUMMARY OF INTRASTATE CONTRACTUAL ACCELERATED TAKE PROVISIONS

FEDERAL POWER COMMISSION—ORDER ESTABLISHING TECHNICAL ADVISORY AND COORDINATING COMMITTEE TASK FORCES AND DESIGNATING MEMBERSHIP

(Issued December 21, 1971)

Before Commissioners: John N. Nassikas, Chairman; John A. Carver, Jr., Albert B. Brooke, Jr., Pinkney Walker, and Rush Moody, Jr.

The Federal Power Commission determines that the establishment of respective Task Forces to the Technical Advisory Committee-Supply, Technical Advisory Committee-Transmission, Technical Advisory Committee-Distribution and the Coordinating Committee, is in the public interest and establishes such Task Forces, as identified in the attached Appendix, all in accordance with the provisions of the Commission's orders issued February 23, 1971, 36 F.R. 3851, April 6, 1971, 36 F.R. 6922 and May 10, 1971, 36 F.R. 8910.

1. Purpose.—The purposes of the Technical Advisory Committee Task Forces are as set forth in the Commission's April 6, 1971, Order Establishing National Gas Survey Technical Advisory Committees and Designating Initial Membership, and the purposes of the National Gas Survey Coordinating Task Force are to further the discharge of the purposes as set forth in the Commission's May 10, 1971, Order Establishing National Gas Survey Coordinating Committee and Designating its Membership and Chairmanship. The Technical Advisory Committee Task Forces are organizationally subordinate to their respective Technical Advisory Committees, and the Coordinating Task Force is organizationally subordinate to the National Gas Survey Coordinating Committee.

The Commission's order issued February 23, 1971, states in part as follows:

"To assist the actions of the Commissioners and Commission staff, the Commission will use various advisory committees which shall be conducted under the general direction of the Commission and in accordance with the provisions of Executive Order No. 11007, February 26, 1962 (27 F.R. 1875). * * * All will be conducted pursuant to the general requirements as set forth in this order. The Commission contemplates the issuance of specific order or orders from time-to-time establishing each committee and denominating its membership and chairmanship.

"The advice of all committees shall be limited to matters relating solely to the planning and carrying out of the National Gas Survey. The Commission will have complete responsibility for the National Gas Survey with respect to its conduct, scope, the ultimate recommendations and the acceptance of the final report. In discharging these responsibilities, the Commission will approve the Survey's objectives, scope of work, organization and schedule of performance, make any required policy determinations and give its advice directed toward the coordination and cooperation between the Survey and any inter-governmental, state, industry, agency or representative, including any other expertise as required."

2. Membership.—With respect to each Task Force, the Task Force Chairman (who shall be designated Director), the Deputy Director, the FPC Survey Coordinating Representative and Secretary, the Alternate FPC Survey Coordinating Representative and Secretary, the FPC Representative and the other Task Force members, shall be selected by the Chairman of the Commission, with the approval of the Commission, and are designated in the Appendix hereto, and any additional persons that may be designated to serve on the Task Forces shall be selected by the Chairman of the Commission, with the approval of the Commission, provided, however, the Chairman of the Commission may select and designate additional persons to serve in the capacity of Alternate FPC Survey Coordinating Representative and Secretary. The person or persons who are designated as the FPC Survey Coordinating Representative and Secretary shall be full-time salaried officers or employees of the Commission. The FPC Survey Coordinating Representative and Secretary, or alternates, shall be designated by the Chairman and serve as Secretary of the Task Force Committee for which selected. The Directors, Deputy Directors, FPC Survey Coordinating Representatives and Secretaries and alternates, the FPC Representatives and the other Task Force members, as selected and approved in accordance with this order, are designated in the Appendix hereto.

3. The following paragraphs of the aforementioned Commission order, issued February 23, 1971, are hereby incorporated by reference:

- "3. Conduct of Meetings.
- "4. Minutes.

- "5. Secretary of the Committee.
- "6. Location and Time of Meetings.
- "7. Advice and Recommendations Offered by the Committee.
- "8. Duration of the Committee."

4. In accordance with the provisions of Section 6(e) of Executive Order No. 11007, 27 F.R. 1875, none of the Task Forces herein established shall be permitted to receive, compile or discuss data or reports showing the past, current or projected non-public commercial operations of identified business enterprises. Data or reports of a non-public nature that are requested by the Federal Power Commission, its staff, National Gas Survey Advisory Committees and Task Forces from identified business enterprises shall be submitted directly to the Director of the National Gas Survey, or to such person on his staff as designated by the Director, or any other designated agents of the Federal Power Commission, and such data or reports will be composited with that submitted by other identified business enterprises and reported on a composite basis and the provisions of Section 8(b) of the Natural Gas Act [15 U.S.C. 717g(b)] and 5 U.S.C. 552(b) (4) and (9) [the Freedom of Information Act] shall apply.

The Secretary of the Commission shall cause prompt publication of this order to be made in the Federal Register in accordance with the provisions of the Office of Management and Budget Circular No. A-63.

By the Commission.

[SEAL]

KENNETH F. PLUMB, *Secretary.*

APPENDIX

NATIONAL GAS SURVEY, SUPPLY—TECHNICAL ADVISORY COMMITTEE

SUPPLY—TECHNICAL ADVISORY TASK FORCE—NATURAL GAS SUPPLY

Director—Ralph W. Garrett, exploration analysis manager, Humble Oil & Refining Co.

Deputy director—Worthy Warnack, geologist, Humble Oil & Refining Co.
FPC survey coordinating representative and secretary—Paul J. Root, Technical Director, National Gas Survey, Federal Power Commission.

Alternate FPC survey coordinating representative and secretary—Donald L. Martin, Regional Engineer (Fort Worth), Federal Power Commission.

FPC representative—Edward A. Albares, head, Gas Supply Section, Federal Power Commission.

Task Force Members

Charles M. Allen, general gas geologist, Phillips Petroleum Co.

John F. Bricker, chairman of the board, Exchange Oil Corp.

G. C. Carlson, gas manager, Union Oil Co. of California.

F. L. Carpenter, petroleum engineering advisor, Gulf Oil Corp.

William B. Cleary, Sr., president, Cleary Petroleum Corp.

John K. Drisdale, manager of Petroleum Engineering, Texaco, Inc.

E. S. Garner, staff engineer, reserves, Standard Oil Co. of California.

R. E. Geiger, evaluation and analysis manager, Exploration and Production Department, Mobil Oil Corp.

B. B. Gibbs, manager, Gas Availability Department, United Gas Pipe Line Co.

P. N. Glover, manager of exploration economics, Shell Oil Co.

H. J. Gruy, president, H. J. Gruy and Associates, Inc.

J. M. Hanley, vice president, Northern Natural Gas Co.

Wayne H. Hardin, manager engineering and evaluation, George Mitchell and Associates.

Kenneth E. Hill, manager of Corporate Finance, Eastman Dillon Union Securities & Co.

Frank Jordan, economic analyst, Independent Petroleum Association of America.

Frank T. Lloyd, director of special projects, Reservoir Engineering Department, Atlantic Richfield Co.

William C. Lonquist, Jr., manager, Contracts and Lands, Texas Eastern Transmission Corp.

H. Alan Nelson, president, Calvert Exploration Co.

E. A. Rassinier, director of resource planning, Trunkline Gas Co.

Ralph P. Poe, staff engineer, Amoco Production Co.

Edwards Symonds, senior economist, First National City Bank of New York.

SUPPLY—TECHNICAL ADVISORY TASK FORCE—REFORMER GAS

Director—L. A. Goldstein, manager, Crude Oil Supply Planning Shell Oil Co.
 Deputy director—Dr. R. J. Howe, coordinator, Energy Policy Development,
 Humble Oil & Refining Co.

FPC survey coordinating representative and secretary—Paul J. Root, Technical
 Director, National Gas Survey, Federal Power Commission.

Alternate FPC survey coordinating representative and secretary—Charles A.
 Gallagher, Engineer, Federal Power Commission.

Task Force Members

Donald E. Anderson, gas compressor superintendent, Consumers Power Co.
 Murray E. Brooks, vice president of engineering development and resource,
 the Lumas Co.

John E. Cohoon, assistant vice president, the Brooklyn Union Gas Co.

C. Vernon Foster, manager, Process Engineering Department, Continental Oil Co.

Richard Goode, vice president, Power Corp. of America.

A. Grossberg, manager, Process Design Division, Chevron Research Corp.

John W. McCutcheon, assistant manager, Economics and Resources Division,
 Planning and Economics Department, United Gas Pipeline Co.

C. H. Stanton, senior engineer, Columbia Gas System Service Corp.

Elwood R. Volpe, load schedule engineer, Public Service Electric & Gas Co.

SUPPLY—TECHNICAL ADVISORY TASK FORCE—LIQUEFIED NATURAL GAS (LNG)

Director—George D. Carameros, Jr., vice president, El Paso Natural Gas Co.
 Deputy director—Barry Hunsaker, assistant vice president, El Paso Natural Gas
 Co.

FPC survey coordinating representative and secretary—Paul J. Root, Technical
 Director, National Gas Survey, Federal Power Commission.

Alternate FPC survey coordinating representative and secretary—Randolph E.
 Mathura, Industry Economist, Federal Power Commission.

Task Force Members

L. C. Ackerman, president and chief executive officer, Newport News Shipbuilding
 & Drydock Co.

Richard A. Bleakney, vice preseident, Boston Gas Co.

W. B. Emery II, manager, Natural Gas Division, Marathon Oil Co.

John E. Hoffman, advisor, new LNG projects, Standard Oil Co. (New Jersey).

Howard A. McKinley, vice president, Continental Oil Co.

Keith C. McKinney, director of Systems Planning and Economics, Pacific Lighting
 Service Co.

Mark J. Millard, partner, Loeb-Rhodes & Co.

Dr. C. M. Sliepcovich, professor of chemical engineering, University of Oklahoma.

Arthur E. Uhl, chief engineer, Gas and LNG Systems, Bechtel, Inc.

Harold E. Vaughan, assistant to vice president, Transcontinental Gas Pipe Line
 Corp.

SUPPLY—TECHNICAL ADVISORY TASK FORCE—NATURAL GAS TECHNOLOGY

Director—Lloyd E. Elkins, director of production research, Amoco Production Co.

FPC survey coordinating representative and secretary—Paul J. Root, Technical
 Director, National Gas Survey, Federal Power Commission.

Alternate FPC survey coordinating representative and secretary—John W. Olson,
 Geologist, Federal Power Commission.

Task Force Members

Charles Atkinson, project leader, Petroleum Engineering, Bureau of Mines, De-
 partment of the Interior.

Dr. Henry F. Coffer, vice president, CER Geonuclear Corp.

P. A. Dennie, assistant to vice president, Production, Shell Oil Co.

John S. Kelly, Director, Division of Peaceful Nuclear Explosives, Atomic Energy
 Commission.

Robert J. Lantz, geologist, Geological Survey, Department of the Interior.

Dr. Richard A. Morse, professor of petroleum engineering, Texas A. & M.
 University.

G. W. Oliver, senior staff evaluations geologist, Standard Oil Co. of California.
 Fred H. Poettman, associate research director, Marathon Oil Co.
 Phillip Randolph, manager of nuclear group, El Paso Natural Gas Co.
 Miles Reynolds, Jr., assistant to vice president, Austral Oil Co.
 Dr. Edward Teller, university professor, university of California, Lawrence Radiation Laboratory.
 Dr. T. H. Timmons, senior research engineer, Mobil Research & Development Corp.
 J. W. Wolfe, production operations manager, Esso Production Research Co.

SUPPLY—TECHNICAL ADVISORY TASK FORCE—SYNTHETIC GAS—COAL

Director—James R. Garvey, executive vice president, National Coal Association.
 FPC survey coordinating representative and secretary—Paul J. Root, Technical Director, National Gas Survey, Federal Power Commission.
 Alternate FPC survey coordinating representative and secretary—Ellis R. Boyd, Jr., Engineer—PE, Federal Power Commission.

Task Force Members

Neal P. Cochran, Chief, Division of Utilization, Office of Coal Research, Bureau of Mines.
 William L. Crentz, Director, Coal Research, Bureau of Mines.
 William N. Doty, vice president, New Business, Western Hemisphere Division, Continental Oil Co.
 Dr. Martin A. Elliott, corporate scientific advisor, Texas Eastern Transmission Co.
 Douglas T. King, director, Research and Engineering, American Gas Association.
 Dr. Henry R. Linden, director, Institute of GasTechnology.
 R. M. Lundberg, general staff engineer, Production Control and Efficiency Department, Commonwealth Edison Co.
 M. F. Oxenreiter, assistant director of process research, American Oil Co.
 J. F. Shomaker, director of corporate planning, Panhandle Eastern Pipe Line Co.
 Howard M. Siegel, manager, Synthetic Fuels Engineering Division, Esso Research & Engineering Co.

SUPPLY—TECHNICAL ADVISORY TASK FORCE—REGULATION AND LEGISLATION

Director—R. Earle Wright, vice president, Gas Department, Texaco Inc.
 Deputy director—Joe P. Hammond, general counsel, Amoco Production Co.
 FPC survey coordinating representative and secretary—Paul J. Root, Technical Director, National Gas Survey, Federal Power Commission.
 Alternate FPC survey coordinating representative and secretary—Leo E. Forquer, Solicitor, Federal Power Commission.

Task Force Members

J. Donald Annett, attorney, Texaco Inc.
 Francis J. Barker, vice president, Natural Gas & Gas Liquids, Union Oil Co. of California.
 J. E. Earnest, vice president, Mobil Oil Corp.
 Martin N. Erck, senior counsel, Humble Oil & Refining Co.
 Kenneth Heady, associate general counsel, Phillips Petroleum Co.
 Don D. Little, manager, Natural Gas Utilization, Standard Oil Co. of California
 Warren M. Sparks, associate general counsel, Warren Petroleum Co.
 Fred C. Sweat, manager, Gas Department, Shell Oil Co.

NATIONAL GAS SURVEY, TRANSMISSION—TECHNICAL ADVISORY COMMITTEE

TRANSMISSION—TECHNICAL ADVISORY TASK FORCE—OPERATIONS

Director—Orval C. Davis, president, Natural Gas Pipeline Co. of America.
 Deputy director—Ronald R. MacNicholas, assistant chief engineer, Natural Gas Pipeline Co. of America.
 FPC survey coordinating representative and secretary—Thomas H. Jenkins (acting), Director, National Gas Survey, Federal Power Commission.
 Alternate FPC survey coordinating representative and secretary—Ellery K. Johnson, Engineer, Federal Power Commission.

Task Force Members

J. H. Echterhoff, vice president of Operations, United Gas Pipe Line Co.
 L. J. Fast, staff manager, Pipelines, Pacific Lighting Service Co.
 Gerald Mardis, assistant general superintendent, Pipelines Department, Florida Gas Transmission Company.
 Henry Martch, pipeline systems engineer, El Paso Natural Gas Co.
 E. O. Nelson, vice president, Transmission Operations, Trunkline Gas Co.
 Thomas Perry, manager, Administrative Services, Tennessee Gas Pipeline Co.
 D. S. Willhelm, senior vice president Transcontinental Gas Pipe Line Corporation.
 F. T. Zitzo, director, Engineering Standards, Kansas-Nebraska Natural Gas Co., Inc.

TRANSMISSION—TECHNICAL ADVISORY TASK FORCE—FACILITIES

Director—John W. Morton, president, Cities Service Gas Co.
 Deputy director—Richard C. Jackson, Vice president, Engineering & Purchasing, Cities Service Gas Co.
 FPC survey coordinating representative and secretary—Thomas H. Jenkins (acting), Director, National Gas Survey, Federal Power Commission.
 Alternate FPC survey coordinating representative and secretary—Weldon L. Thomas, Engineer, Federal Power Commission.

Task Force Members

C. C. Barnett, senior vice president, Gas Supply, United Gas Pipe Line Co.
 Malcolm H. Boswell, senior engineer, El Paso Natural Gas Co.
 W. C. Day, senior engineer, Columbia Gas System Service Corp.
 M. E. Fuller, manager, System Transmission Engineering, Pacific Lighting Service Co.
 L. E. Hanna, vice president, Engineering, Panhandle Eastern Pipe Line Co.
 Robert V. Mallonee, chief engineer, Cities Service Gas Co.
 R. R. Olson, chief engineer, Colorado Interstate Corp.
 Russell A. Sault, assistant vice president and chief engineer, Northern Illinois Gas Co.
 Charles E. Schorre, manager, Engineering and Planning, Transcontinental Gas Pipe Line Corp.

TRANSMISSION—TECHNICAL ADVISORY TASK FORCE—ECONOMICS

Director—Wilber H. Mack, president, Michigan Wisconsin Pipe Line Co.
 Deputy director—Ray L. Lynch, executive vice president, Michigan Wisconsin Pipe Line Co.
 FPC survey coordinating representative and secretary—Thomas H. Jenkins (acting), director, National Gas Survey, Federal Power Commission.
 Alternate FPC survey coordinating representative and secretary—Louis W. Mendonsa, Special Assistant to Bureau Chief, Federal Power Commission.
 FPC representative—M. Cecile Pinette, Economist, Federal Power Commission.

Task Force Members

Page Anderson, vice president, Panhandle Eastern Pipe Line Co.
 Herbert Bickel, treasurer, Texas Eastern Gas Transmission Corp.
 Robert F. Dangel, treasurer, Michigan Wisconsin Pipe Line Co.
 U. V. Goodwyn, vice president and treasurer, Southern Natural Gas Co.
 Virgil Meythaler, senior vice president, Texas Gas Transmission Corp.
 Wayne Simpson, executive vice president, Natural Gas Pipeline Co., of America.
 Charles Webb, vice president, Tenneco Inc.

TRANSMISSION—TECHNICAL ADVISORY TASK FORCE—REGULATION AND LEGISLATION

Director—George F. Kirby, president, Texas Eastern Transmission Corp.
 Deputy director—Jack D. Head, vice president and general counsel, Texas Eastern Transmission Corp.
 FPC survey coordinating representative and secretary—Thomas H. Jenkins (acting), Director, National Gas Survey, Federal Power Commission.
 Alternate FPC survey coordinating representative and secretary—Gordon Gooch, General Counsel, Federal Power Commission.

Task Force Members

G. Scott Cuming, vice president and general counsel, El Paso Natural Gas Co.
 John Ormasa, vice president and general counsel, Pacific Lighting Service Co.
 R. O. Koch, executive vice president, Texas Gas Transmission Corp.
 F. Vinson Roach, vice president and general counsel, Northern Natural Gas Co.
 Raymond N. Shibley, general counsel, Panhandle Eastern Pipe Line Co.
 Peter G. Smith, executive vice president and general counsel, Southern Natural Gas Co.
 H. P. Sullivan, general counsel, Consolidated Natural Gas Co.

NATIONAL GAS SURVEY, DISTRIBUTION—TECHNICAL ADVISORY COMMITTEE**DISTRIBUTION—TECHNICAL ADVISORY TASK FORCE—GENERAL**

Director—Ralbern H. Murray, director, Marketing, Consolidated Natural Gas Service Co., Inc.
 Deputy director—T. M. Hogan, administrative assistant to the president, the East Ohio Gas Co.
 FPC survey coordinating representative and secretary—Kenneth B. Lucas, assistant to the Chairman, Federal Power Commission.
 Alternate FPC survey coordinating representative and secretary—Charles A. Gallagher, Engineer, Federal Power Commission.
 FPC representatives:
 Warren W. Morrison, Economist, Federal Power Commission.
 Gordon K. Zareski, head, National Supply and Demand Estimates Section, Analysis and Procedures Division—BNG, Federal Power Commission.

Task Force Members

Leonard L. Beebe, chief economist, Columbia Gas System, Inc.
 Leonard W. Fish, director, Planning Division, American Gas Association.
 Carrington Mason, senior vice president, Houston Natural Gas Corp.
 William C. McDonnell, research engineer, Pacific Lighting Service Co.
 Dr. John J. Schanz, Jr., director, Future Requirements Agency, Denver Research Institute, University of Denver.

NATIONAL GAS SURVEY, COORDINATING TASK FORCE

Director—Richard C. Young, member of coordinating committee and deputy to W. M. Elmer.
 FPC (NGS) representative—Thomas H. Jenkins, member of coordinating committee and transmission—TAC.¹
 FPC survey coordinating representative and secretary—Kenneth B. Lucas, member of coordinating committee and distribution—TAC.¹
 Alternate FPC survey coordinating representative and secretary—Paul J. Root, member of coordinating committee and supply—TAC.¹

Task Force Members

Ferdinand L. Gagne, member of coordinating committee, deputy vice chairman—Transmission, TAC.¹
 Ralbern H. Murray member of coordinating committee, deputy vice chairman—Distribution, TAC.¹
 William T. Slick, member of coordinating committee, deputy vice chairman—Supply, TAC.¹

FEDERAL POWER COMMISSION—ORDER AMENDING ORDER PRESCRIBING PROCEDURES FOR THE NATIONAL GAS SURVEY

(Issued March 9, 1972)

Before Commissioners: John N. Nassikas, Chairman; John A. Carver, Jr., Albert B. Brooke, Jr., Pinkney Walker, and Rush Moody, Jr.

By order issued December 21, 1971, the Commission directed that a study and analysis of natural gas reserves be conducted and prescribed procedures for its undertaking. In ordering paragraph (C) of that order, the Commission noted that

¹ TAC—Technical Advisory Committee.

the procedures therein specified did not preclude the undertaking of such other procedures or reserves studies or the obtaining of such further information or data relating to gas supply as may be determined by the Commission or Staff to be necessary or appropriate in carrying out the Commission's National Gas Survey to serve the public interest.

The procedures set forth in that order established independent reserve teams, to be made up of geologists, engineers and other professional staff members of the Federal Power Commission to review data ordinarily needed to determine gas reserves, with assistance, as available, from the United States Geological Survey, United States Bureau of Mines, and from colleges and universities. These independent reserve teams would make independent reserve estimations of selected natural gas fields in the offices of the various companies, transmitting those estimations on a confidential basis to the reserve team supervisor.

The Commission reiterates the need for protecting the confidentiality of proprietary information. The Commission recognizes that the publicizing of such information would have an inhibiting effect upon future exploration for natural gas reserves since speculators could equally benefit with those companies willing to make geological and geophysical expenditures. Therefore, the Commission reaffirms ordering paragraph (B) of its December 21, order which reads as follows:

"Any non-public commercial information concerning an individual natural gas company's reserves obtained during the course of this survey and analysis shall be treated as confidential without public disclosure by the staff of the Commission and its agents, including any accounting firm selected by the Commission to assist in this survey and analysis, unless otherwise directed by the Commission. The provisions of Section 8(b) of the Natural Gas Act [15 U.S.C. 717g(b)] and 5 U.S.C. 552(b) (4) and (9) [Freedom of Information Act] shall apply."

Among the security considerations prescribed to preserve that confidentiality, the Commission required in its order that all company-furnished data be evaluated at the companies' offices with no data or worksheets leaving the premises. Worksheets generated by independent reserve teams were to be preserved in the companies' offices until July 1, 1974. Upon reconsideration, we believe that the confidentiality of such worksheets as are prepared by independent reserve teams may be better protected if those worksheets are returned to the Commission's offices in Washington, D.C., to the custody of the Technical Director of the National Gas Survey, who shall take all steps necessary for protecting the security of these worksheets.

The Commission finds:

The objectives of the National Gas Survey will be served by maintaining the worksheets generated by the independent reserve teams in a central repository, properly secured.

It is in the public interest that such worksheets be retained by the Commission, subject to further order.

The Commission orders:

(A) The procedures approved in Paragraph II A of Appendix A to the "Order Directing Study and Analysis of Natural Gas Reserves and Prescribing Procedures for the National Gas Survey" (December 21, 1971) is hereby amended in accordance with Paragraphs B and C, *infra*.

(B) Worksheets generated by the independent reserve teams in the course of their independent reserve estimations shall be returned to the Commission's Washington, D.C., offices and there preserved in the custody of the Technical Director of the National Gas Survey, subject to further order.

(C) The confidentiality of these worksheets shall be maintained without public disclosure pursuant to the provisions of Section 8(b) of the Natural Gas Act [15 U.S.C. 717g(b)] and 5 U.S.C. 552(b)(4) and (9) [Freedom of Information Act], subject to further order.

By the Commission.

[SEAL]

KENNETH F. PLUMB, *Secretary.*

TEXACO, INC.,
Houston, Tex., October 13, 1972.

Re reliability of electric and gas service, docket No. R-405.

Mr. LAWRENCE R. MANGEN,
Investigating Officer, Federal Power Commission,
Washington, D.C.

DEAR SIR: As required by the directive of the Federal Power Commission (Commission) issued on September 12, 1972 in Docket No. R-405, Reliability of Electric and Gas Service, submitted herewith are Texaco's answers to questions A through D of Appendix B-1 and completed Appendices B-2 through B-3, all of which were attached to the directive of the Commission issued in the captioned docket. The answers to the questions contained in these appendices are being given under protest and duress. Further, compliance by Texaco with the directive issued in this proceeding is not a concession by Texaco that the Commission has the right under Sections 4, 5, 7, 8, 14, 15, 16, and 17 of the Natural Gas Act to designate such authority or to obtain the extremely confidential and proprietary information which is not expressly subject to its jurisdiction. Texaco specifically reserves all legal objections and rights which may be available to it before the Commission, any designated officer or any court at law both in this case and in any other case where such information may be sought. Further, Texaco submits such information hereunder, which is privileged, confidential and which is not to be released, with the express understanding that such compliance will not constitute nor be construed as a waiver of any claim of privilege in any future case. In addition, Texaco submits such information only with the express understanding that the individual company data will be kept in a confidential status in accordance with provisions of Section 8(b) of the Natural Gas Act while it is being composited. Texaco further requests that said information either be returned to it or destroyed upon completion of the compositing.

Respectfully submitted,

KIRK W. WEINERT,
Attorney for Texaco, Inc.

[Federal Power Commission News release, Washington, D.C., Feb. 22, 1973]

FPC STAFF RELEASES REPORT ON UNCOMMITTED NATURAL GAS RESERVES

Total uncommitted natural gas reserves available for sale in the lower 48 states as reported by 79 large gas producers declined from 4.6 trillion cubic feet at the end of 1969 to 3.4 trillion cubic feet by mid-1972, the Federal Power Commission staff reported today.

The staff report, signed by Thomas J. Joyce, Chief of the FPC's Bureau of Natural Gas, is based on information provided to the Commission by gas producers on reserves available for sale as of December 31, 1971 and June 30, 1972. The data was collected to update information on uncommitted natural gas reserves as part of the FPC's continuing investigation of the adequacy and reliability of gas supply and deliverability.

Total reserves available in the lower 48 states (Alaska and Hawaii not included) decreased from 4.6 trillion cubic feet at the end of 1969 to 3.8 trillion cubic feet as of December 31, 1971. This latter volume is equal to 1.5 percent of the proved reserves as reported for that date by the American Gas Association.

Including Alaska, uncommitted reserves available for sale on June 30, 1972, were 31.2 trillion cubic feet, compared with 6.0 trillion at the end of 1969. The substantial rise in these figures results from the addition of the Alaskan North Slope reserves, which were not included in the 1969 figures.

However, even including the North Slope reserves, the total U.S. declined from 31.6 trillion as of December 31, 1971, to 31.2 trillion on June 30, 1972.

The reserve figures, summarized in the attached tables, show a decline for non-associated gas (not in contact with, or dissolved in, crude oil in reservoirs) for both the lower 48 states and for the total U.S., including Alaska, between the end of 1969 and mid-1972.

The associated-dissolved gas reserves (those in contact with, or dissolved in, crude oil in reservoirs) available for sale remained fairly constant during the period December 31, 1969, through June 30, 1972, except for the addition of the Alaskan North Slope reserves in the total.

The report shows slight upward trends for the Federal offshore in the South Louisiana area, the Hugoton-Anadarko area, the Rocky Mountain area, the Appalachian area, California, and miscellaneous other states.

Today's report results from an FPC order issued last September 12 directing 79 large natural gas producers to provide information on the gas they had available for sale as of December 31, 1971, and June 30, 1972. The Commission requested the information in order to update data on uncommitted natural gas reserves in its investigation initiated November 4, 1970, to enable it to assess the adequacy and reliability of gas supply and deliverability to meet consumer demands.

The staff report accompanies this release.

FEBRUARY 9, 1973.

Memorandum to: The Commission.

From: Chief, Bureau of Natural Gas.

Subject: Staff report on nationwide investigation: Large Producer Gas Reserves Available for Sale (docket No. R-405).

The Commission on September 12, 1972, re-issued Docket No. R-405 in order to elicit additional information to further assess the adequacy and reliability of gas supply to meet consumer demand. Responses were due by October 6, 1972. Many of the respondents filed late and 15 did not file at all. A letter was sent by the Secretary on November 15, 1972, to the non-filing companies requesting compliance. All respondents have now replied.

The reserve figures reported by the "Large Producers" are set forth on the attached tables. Table I contains Total Gas Reserves, Table II, Nonassociated Gas Reserves, and Table III, Associated-Dissolved Gas Reserves that were available for sale on the dates specified. Footnotes for the tables follow the 3 attached tables. An overall summary is shown on the following table:

AVAILABLE FOR SALE

[In trillions of cubic feet]

	Total	Nonassociated	Associated-dissolved
Lower 48:			
Dec. 31, 1969.	4.6	4.0	.6
Oct. 1, 1970.	4.4	3.8	.7
Dec. 31, 1971.	3.8	3.1	.7
June 30, 1972.	3.4	2.8	.6
Total United States:¹			
Dec. 31, 1969.	5.9	5.2	.7
Oct. 1, 1970.	6.0	5.3	.7
Dec. 31, 1971.	² 31.7	4.9	² 26.8
June 30, 1972.	31.2	4.5	26.7

¹ Includes Alaska.

² Includes North Slope Alaska.

The inclusion of Alaskan North Slope reserves in the Total and Associated-Dissolved gas reserves in Tables I and III, masks any U.S. Total trends, over the time span of the two investigations, because of the extremely large size of these reserves which were not reported in the first R-405 reserve report. Therefore, in order to see any significant U.S. trends the lower "48" figures should be used. There are slight upward trends as shown in Table I, Total Gas, for Federal Offshore in South Louisiana, the Hugoton-Anadarko Area, the Rocky Mountain Area, Appalachian Area, California, and Miscellaneous States. The upward trend in these areas, however, cannot overcome the overall downward trend in total gas on Table I for the lower "48". Even Alaska, with or without the North Slope reserves, shows a downward trend.

Table II, Nonassociated Gas, shows the same trends as Table I.

Table III, Associated-Dissolved Gas shows slight increasing trends in Federal Offshore Louisiana, Rocky Mountain Area, and Miscellaneous.

THOMAS J. JOYCE.

Attachments.

RESPONDENTS

- Amerada Hess Corp.
 American Petrofina Co. of Texas.
 Amoco Production Co.
 Anadarko Production Co.
 Ashland Oil & Refining Co.
 Atlantic-Richfield Co.
 Austral Oil Co., Inc.
 Aztec Oil & Gas Co.
 Bass Enterprises Production Co.
 Belco Petroleum Corp.
 Beta Development Co.
 Cabot Corp.
 California Co., Division Chevron Oil
 Champlin Petroleum Co.
 Chevron Oil Co.
 Cities Service Co.
 Cities Service Oil Co.
 Clinton Oil Co.
 Coastal States Gas Producing Co.
 E. Coekrell, Jr.
 Colorado Oil & Gas Corp.
 Coltexo Corp.
 Colombia Gas Development Corp.
 Continental Oil Co.
 Edwin L. Cox.
 Dinmond Shamrock Corp.
 Dorchester Gas Production Co.
 Exchange Oil & Gas Co.
 Forest Oil Corp.
 General American Oil Co of Texas.
 Getty Oil Co.
 Gulf Oil Corp.
 Hassie Hunt Trust.
 Helmerich & Payne, Inc.
 J. M. Huber Corp.
 Humble Oil & Refining Co.
 Hunt Oil Co.
 The Jupiter Corp.
 Kerr-McGee Corp.
 Lone Star Producing Co.
 Louisiana Land & Exploration Co.
 LVO Corp.
 Mapeco Production Co.
 Marathon Oil Co.
 Mobil Oil Corp.
 Monsanto Co.
 Natural Gas & Oil Corp.
 Northern Natural Gas Prod. Co.
 Ocean Drilling & Exploration Co.
 Petroleum, Inc.
 Phillips Petroleum Co.
 Pioneer Production Corp.
 Placid Oil Co.
 Pennzoil Producing Co.
 Pennzoil United, Inc.
 Pubco Petroleum Corp.
 The Rodman Corp.
 Shell Oil & Gas Co.
 Signal Oil & Gas Co.
 Skelly Oil Co.
 Sohio Petroleum Co.
 Southern Natural Gas, Jt. Venture.
 Southern Union Gathering Co.
 Southern Union Production Co.
 Suburban Propane Gas Corp.
 Sun Oil Co.
 Tenneco Oil Co.
 Tennessee Gas Supply Co.
 Terra Resources, Inc.
 Texaco, Inc.
 Texas Gas Exploration Corp.
 Texas Oil & Gas Corp.
 Transocean Oil, Inc.
 The Superior Oil Co.
 Union Carbide Petroleum Corporation
 (Ashland).
 Union Oil Co. of California.
 Union Pacific Railroad Co.
 Union Texas Petroleum.
 Warren Petroleum Corp.

TABLE I.—TOTAL LARGE PRODUCERS PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE

[Millions of cubic feet at 14.73 lb/in² a and 60 °F.]

Area	Total proven reserves as of Dec. 31, 1969, reported by American Gas Association	Large producers reserves available for sale ¹		Total proven reserves as of Dec. 31, 1971, reported by American Gas Association	Large producers reserves available for sale ¹	
	As of Dec. 31, 1969	As of Oct. 1, 1970	As of Dec. 31, 1971	As of June 30, 1972	As of Dec. 31, 1971	As of June 30, 1972
South Louisiana.....	80,769,437	2,014,110	2,173,303	74,968,645	1,770,603	1,873,267
Onshore.....	56,666,983	³ 1,004,206	³ 1,117,499	47,128,723	572,157	398,830
Offshore.....	² 24,102,454	³ 1,009,904	³ 1,005,804	² 27,839,922	1,198,446	1,474,437
Federal.....					1,159,553	1,442,685
State.....					38,893	31,752
Texas gulf coast ⁴	⁵ 67,540,216	1,056,974	735,326	⁵ 60,844,298	631,840	544,441
Onshore.....		597,210	494,405		311,266	344,917
Offshore.....		459,764	240,921		320,574	199,524
Federal.....					305,574	152,624
State.....					15,000	46,900
Permian Basin ⁶	29,977,869	591,927	353,087	26,622,622	445,046	318,976
Hugoton-Anadarko ⁷	36,894,586	355,542	394,963	33,299,985	42,624	54,313
Other Southwest ⁸	23,236,084	251,828	430,320	20,657,896	551,694	171,061
Rocky Mountain ⁹	17,514,030	198,569	205,620	17,087,479	241,031	264,807
Appalachian ¹⁰	6,048,395	7,463	10,846	6,588,177	10,752	11,608
Unclassified areas:						
Michigan.....	750,964	4,363	1,115	1,016,482	3,484	0
California.....	6,870,946	52,222	10,252	5,729,499	58,911	79,568
All others.....	304,165	45,482	60,002	625,194	61,853	82,470
Total lower 48 ¹¹	269,906,692	4,578,480	4,374,834	247,440,277	3,817,838	3,400,511
Alaska ¹²	⁵ 202,143	¹³ 1,406,840	¹³ 1,699,297	31,365,341	¹² 27,822,861	¹² 27,817,181
Total, United States....	275,108,835	5,985,284	6,074,131	278,805,618	31,640,699	31,217,692

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 M ft³. Proved reserves are, using the definition of the committee on natural gas reserves of the American Gas Association, as follows:

The current estimated quantity of natural gas which analysis of geological and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test.

The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir.

Consistent with procedures of the committee on natural gas reserves of the American Gas Association, proved reserves do not include the portions of the reservoir hydrocarbons gas recovered in liquid form in surface separators or plant facilities. Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held available for sale are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² AGA figures include zone 1 offshore in onshore figures.

³ Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e., zone 1 is included in onshore). The respondents in docket No. R-405 included only large producers. The respondents in docket No. AR69-1 included large and certain small producers as well as pipeline companies.

⁴ Consists of Texas RR. District Nos. 1, 2, 3, and 4.

⁵ Includes offshore reserves.

⁶ Consists of Texas RR. District Nos. 7-B, 7-C, 8, and 8A and Southeast New Mexico.

⁷ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR. District No. 10.

⁸ Other Southwest includes Arkansas, Eastern Oklahoma, Texas RR. District Nos. 5, 6, and 9, North Louisiana and Mississippi.

⁹ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and Northwest New Mexico.

¹⁰ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

¹¹ Does not include Alaska.

¹² For total reserves: The 1,406,804 MM ft³ of reserves in 1969 and the 1,699,297 MM ft³ of reserves in 1970 do not include Alaska north slope reserves. Alaska north slope total R-405 reported gas reserves are 26,000,000 MM ft³ of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1976. For nonassociated reserves: The 1,275,754 MM ft³ of reserves in 1969 and the 1,572,254 MM ft³ of reserves in 1970 do not include Alaska north slope reserves. For associated dissolved reserves: The 131,050 MM ft³ of reserves in 1969 and the 127,043 MM ft³ of reserves in 1970 do not include Alaska north slope reserves.

¹³ Includes Alaskan north slope reserves of all producers.

TABLE II.—TOTAL LARGE PROVED NONASSOCIATED NATURAL GAS RESERVES AVAILABLE FOR SALE
(MILLIONS OF CUBIC FEET AT 14.73 LB/IN²A AND 60°F)¹

Area	Total proven reserves as of Dec. 31, 1969, reported by American Gas Association	Large producers reserves available for sale ¹		Total proven reserves as of Dec. 31, 1971, reported by American Gas Association	Large producers reserves available for sale ¹	
	As of Dec. 31, 1969	Oct. 1, 1970	As of Dec. 31, 1971	As of June 30, 1972		
South Louisiana	66,602,555	1,662,668	1,812,726	62,543,880	1,490,827	1,660,762
Onshore	46,671,165	³ 781,038	³ 936,775	39,066,971	342,441	277,396
Offshore	² 19,931,390	³ 881,630	³ 875,951	² 23,476,909	1,148,386	1,383,366
Federal					1,111,400	1,353,273
State					36,986	30,093
Texas gulf coast ⁴	⁵ 50,791,040	944,294	648,047	⁵ 46,081,948	590,129	502,927
Onshore		484,530	408,926		269,589	303,403
Offshore		459,764	239,121		320,540	199,524
Federal					305,540	152,624
State					15,000	46,900
Permian Basin ⁶	16,843,155	583,594	342,811	15,299,604	339,690	215,728
Hugoton-Anadarko ⁷	34,290,945	350,271	384,741	30,979,944	33,807	50,623
Other Southwest ⁸	16,253,844	142,949	323,046	14,544,882	433,135	64,384
Rocky Mountain ⁹	15,215,440	188,023	193,745	14,788,864	116,640	132,701
Appalachian ¹⁰	3,996,851	3,592	5,864	4,042,767	10,550	11,425
Unclassified areas:						
Michigan	73,268	3,725	200	179,479	3,484	0
California	2,857,084	48,616	7,150	2,342,432	36,370	57,300
All others	66,737	45,240	59,316	182,396	47,546	62,521
Total lower 48 ¹¹	206,990,919	3,972,972	3,777,646	190,986,196	3,102,178	2,758,371
Alaska ¹²	4,882,363	¹³ 1,275,754	¹³ 1,572,254	4,967,421	¹² 1,780,992	¹² 1,780,992
Total, United States	211,873,282	5,248,726	5,349,900	195,953,617	4,883,170	4,539,363

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 M ft.³ proved reserves are, using the definition of the committee on natural gas reserves of the American Gas Association, as follows:

The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test.

The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir.

Consistent with procedures of the committee on natural gas reserves of the American Gas Association, proved reserves do not include the portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities. Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held available for sale are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² AGA figures include zone 1 offshore in onshore figures.

³ Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e., zone 1 is included in onshore). The respondents in docket No. R-405 included only large producers. The respondents in docket No. AR69-1 included large and certain small producers as well as pipeline companies.

⁴ Consists of Texas RR. district Nos. 1, 2, 3, and 4.

⁵ Includes offshore reserves.

⁶ Consists of Texas RR. district Nos. 7-B, 7-C, 8, and 8A and Southeast New Mexico.

⁷ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR. district No. 10.

⁸ Other Southwest includes Arkansas, Eastern Oklahoma, Texas RR. district Nos. 5, 6, and 9, North Louisiana and Mississippi.

⁹ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and Northwest New Mexico.

¹⁰ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

¹¹ Does not include Alaska.

¹² Includes Alaskan north slope reserves of all producers.

¹³ For total reserves: The 1,406,804 M ft.³ of reserves in 1969 and the 1,699,297 MM ft.³ of reserves in 1970 do not include Alaska north slope reserves. Alaska north slope total R-405 reported gas reserves are 26,000,000 MM ft.³ of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1976. For nonassociated reserves: The 1,275,754 MM ft.³ of reserves in 1969 and the 1,572,254 MM ft.³ of reserves in 1970 do not include Alaska north slope reserves. For associated dissolved reserves: The 131,050 MM ft.³ of reserves in 1969 and the 127,043 MM ft.³ of reserves in 1970 do not include Alaska north slope reserves.

TABLE III.—TOTAL LARGE PRODUCER PROVED ASSOCIATED DISSOLVED NATURAL GAS RESERVES AVAILABLE FOR SALE

[Millions of cubic feet at 14.73 lb/in.² a and 60° F.]

Area	Dec. 31, 1969, reported by American Gas Association	Total proven reserves as of Dec. 31, 1969, available for sale ¹		Total proven reserves as of Dec. 31, 1971, reported by American Gas Association		Large producers reserves available for sale ¹	
		As of Oct. 1, 1969	As of Oct. 1, 1970	As of Dec. 31, 1971	As of June 30, 1971	As of Dec. 31, 1971	As of June 30, 1971
South Louisiana.....	14,166,882	351,442	360,577	12,416,106	279,776	212,505	
Onshore.....	9,995,818	3223,168	3180,724	8,053,093	265,353	121,434	
Offshore.....	24,171,064	3128,274	3179,853	24,363,013	50,060	91,071	
Federal.....					48,153	89,412	
State.....					1,907	1,659	
Texas Gulf Coast ⁴	516,734,649	112,680	87,279	514,780,807	-	-	
Onshore.....		112,680	85,479	-	41,677	41,514	
Offshore.....			1,800	-	34	34	
Federal.....							
State.....							
Permian Basin ⁶	13,089,093	8,333	10,276	11,286,103	105,356	103,248	
Hugoton-Anadarko ⁷	2,462,994	5,271	10,222	2,127,329	8,817	3,690	
Other Southwest ⁸	6,624,707	108,879	107,274	5,719,148	118,559	106,677	
Rocky Mountain ⁹	2,056,895	10,546	11,875	2,023,868	124,391	132,106	
Appalachian ¹⁰	258,602	3,871	4,982	260,537	202	183	
Unclassified areas:							
Michigan.....	82,186	638	915	184,541	-	-	
California.....	3,826,608	3,606	3,102	3,175,368	22,541	22,268	
All others.....	11,248	242	686	196,046	14,307	19,105	
Total lower 48 ¹¹	59,313,864	605,508	597,188	52,139,853	715,660	584,664	
Alaska ¹²	310,780	131,050	127,043	26,397,920	1226,041,869	1226,036,189	
Total, United States.....	59,633,644	736,558	724,231	78,537,773	26,757,529	26,678,329	

¹ Large producers are defined as those making annual jurisdictional sales of natural gas in excess of 10,000,000 M ft³, proved reserves are, using the definition of the committee on natural gas reserves of the American Gas Association, as follows:

The current estimated quantity of natural gas which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in the future from known oil and gas reservoirs under existing economic and operating conditions. Reservoirs are considered proved that have demonstrated the ability to produce by either actual production or conclusive formation test.

The area of a reservoir considered proved is that portion delineated by drilling and defined by gas-oil, gas-water, or oil-water contacts or limited by structural deformation or lenticularity of the reservoir. In the absence of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the proved limits of the reservoir. The proved area of a reservoir may also include the adjoining portions not delineated by drilling but which can be evaluated as economically productive on the basis of geological and engineering data available at the time the estimate is made. Therefore, the reserves reported by the committee include total proved reserves which may be in either the drilled or the undrilled portions of the field or reservoir.

Consistent with procedures of the Committee on Natural Gas Reserves of the American Gas Association, Proved Reserves do not include the portions of the reservoir hydrocarbon gas recovered in liquid form in surface separators or plant facilities. Proved natural gas reserves available for sale shall be reported as the reporting company's working interest including royalty. The volumes held available for sale are those which are not covered by gas purchase contracts and are not reserved for direct industrial contracts, company use-warranty gas or company use-fuel and feedstock.

² AGA figures include Zone 1 Offshore in Onshore figures.

³ Reserve data divided between onshore and offshore at coastline. South Louisiana reserve data reported in docket No. AR69-1 divides onshore and offshore on basis of State and Federal domain (i.e., zone 1 is included in onshore). The respondents in docket No. R-405 included only large producers. The respondents in docket No. AR69-1 included large and certain small producers as well as pipeline companies.

⁴ Consists of Texas RR, district Nos. 1, 2, 3, and 4.

⁵ Includes offshore reserves.

⁶ Consists of Texas RR, district Nos. 7-B, 7-C, 8, and 8A and Southeast New Mexico.

⁷ The Hugoton-Anadarko area includes Kansas, Oklahoma Panhandle, Oklahoma Anadarko, and Texas RR, district No. 10.

⁸ Other Southwest includes Arkansas, Eastern Oklahoma, Texas R.R. district Nos. 5, 6, and 9, North Louisiana and Mississippi.

⁹ Rocky Mountain includes North Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, and Northwest New Mexico.

¹⁰ Appalachian includes Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

¹¹ Does not include Alaska.

¹² Includes Alaskan north slope reserves of all producers.

¹³ For total reserves: The 1,406,804 MM ft³ of reserves in 1969 and the 1,699,297 MM ft³ of reserves in 1970 do not include Alaska north slope reserves. Alaska north slope total R-405 reported gas reserves are 26,000,000 MM ft³ of associated gas. However, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1976. For nonassociated reserves: The 1,275,754 MM ft³ of reserves in 1969 and the 1,572,254 MM ft³ of reserves in 1970 do not include Alaska north slope reserves. For associated dissolved reserves: The 131,050 MM ft³ of reserves in 1969 and the 127,043 MM ft³ of reserves in 1970 do not include Alaska north slope reserves.

FEDERAL POWER COMMISSION,
Washington, D.C., April 22, 1973.

To: Mr. Wilson.

At last we have an answer to our request on uncommitted reserves. I will be interested in the percentages.

HASKELL P. WALD,
Chief, Office of Economics.

MARCH 21, 1973.

Memorandum to: Chief, Office of Economics.

From: Chief, Bureau of Natural Gas.

Subject: Uncommitted Gas Reserves, Docket No. R-405.

As requested by you I directed the Investigating Officer, Mr. Lawrence R. Mangeu, to composite information on uncommitted gas reserves of the 4 largest and 8 largest producers by the reported areas. This tabulation is attached.

It is my belief that this composite report does not violate the strictures of the order under which the data was obtained.

However, because of the provisions of the order and the confidentiality of the material, the composited report should remain Administratively Confidential.

THOMAS J. JOYCE.

ADMINISTRATIVELY CONFIDENTIAL

LARGEST PRODUCERS = PROVIDED NATURAL GAS RESERVES AVAILABLE FOR SALE
(ALL INFORMATION IS SUBJECT TO CONFIRMATION AND CHANGE)

I agree with John. I think we should inform Joyce and Mangen (Albores, etc.) of our displeasure.

S.S.

Mr. WALD: BNG's lack of accuracy (and apparently of cooperation) in this matter is most distressing. Since they knew of our desire to use the data why would they destroy it? Is it possible that another copy is available so that we can make our own verification?

MAY 17, 1973.

Memorandum to: Office of Personnel Programs.

From: Executive Director.

Subject: Recommendation for award for John W. Wilson.

The attached recommendation submitted by the Office of Economics is returned herewith disapproved. As the Chairman's note on the form indicates, the justification for the award relies upon Doctor Wilson's service as an expert witness in formal proceedings not yet determined by the Commission. To confer upon Doctor Wilson, an award for his testimony would be to appear to endorse that testimony. Since the case must be determined on the entire record, the Commission is not in a position at this time to confer any award for participation in these pending cases.

This, of course, is without prejudice to resubmission of the recommendation upon final Commission action in all of these proceedings.

WEBSTER P. MAXSON.

RECOMMENDATION FOR RECOGNITION OF EMPLOYEE PERFORMANCE OR ACHIEVEMENTS

INSTRUCTIONS - Supervisors will complete Parts I and II, and submit this form in duplicate, through the appropriate reviewing and/or Bureau or Office official, to the Office of Personnel Programs.

PART I

NAME OF EMPLOYEE (Mr.) John W. Wilson	RECOMMENDATION FOR <input checked="" type="checkbox"/> OUTSTANDING PERFORMANCE RATING <input checked="" type="checkbox"/> INCENTIVE AWARD, (Specify) <u>Outstanding Performance Award</u>
POSITION TITLE AND NO. Supervisory Economist No. 1658 (Chief, Division of Economic Studies)	ORGANIZATIONAL LOCATION (Give Bur/Sectg, Div, Sec- Series GRADE Section) Office of Economics, Division of Economic Studies
TIME IN ABOVE POSITION From August 6, 1972 To Present	PERIOD COVERED BY RECOMMENDATION From August 6, 1972 To March 31, 1977
Remarks * (Also covers April 1-August 5, 1972 prior to appointment as Division Chief)	

SIGNATURE OF IMMEDIATE SUPERVISOR <i>David S. Lebowitz</i>	TITLE Assistant Chief, Office of Economics	DATE April 24, 1973
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PART II

ACTION BY REVIEWING OFFICIAL	REVIEWING OFFICIAL	
SIGNATURE OF REVIEWING OFFICIAL <i>Henry P. Walz</i>	TITLE Chief, Office of Economics	DATE April 24, 1973
BUREAU/OFFICE		
ACTION BY BUREAU/OFFICE <input type="checkbox"/> Recommend Approval <input type="checkbox"/> Other (Specify) <input type="checkbox"/> Disapproved		
SIGNATURE	TITLE Executive Director	DATE

OFFICE OF PERSONNEL PROGRAMS		
ELIGIBILITY REQUIREMENTS		
RECOMMENDATION OF INCENTIVE AWARDS COMMITTEE		
ACTION BY OFFICE OF PERSONNEL PROGRAMS		
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved <input type="checkbox"/> Recommend Approval <input type="checkbox"/> Other (Specify)		
SIGNATURE	TITLE	DATE
OFFICE OF THE CHAIRMAN		
ACTION BY CHAIRMAN <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	DATE	
SIGNATURE OF CHAIRMAN	(DO NOT WRITE IN THIS SPACE)	

FPC Form 512

The incumbent directs the work of the Division, including the research activities of the Division's 9 professional economists. These activities involve the practical application of economic concepts and analytical tools to the complex policy issues arising out of the Commission's regulation of the natural gas and electric power industries. The incumbent supervises the completion of assignments from the Chief of the Office or in connection with ongoing proceedings, and he initiates other projects in response to perceived needs in support of Commission programs.

Incumbent serves as a staff expert in litigated proceedings by providing economic testimony and assisting staff counsel. He conducts a continuing program of research as a basis for policy recommendations to the Commission.

The exercise of independent and sound professional judgment is of critical importance in this position, as is the ability to engage in innovative thinking and research on the emerging regulatory problems. Because of the present incumbent's recognized competence and articulateness, his duties involve frequent contacts with the Chairman and other Commissioners.

Dr. Wilson continues to demonstrate exceptional talent as a versatile, skillful, and eloquent economist. As explained below, he has made truly outstanding contributions in furtherance of the Commission's goals during the past year. On numerous occasions Chairman Nassikas has singled him out for special commendation. Dr. Wilson has also proved to be an exceptionally effective supervisor with unusual leadership qualities and the ability to stimulate intellectual motivation in his staff.

A complete resume of Dr. Wilson's significant accomplishments during the past year would unduly lengthen this statement. The following list is illustrative only:

1. In the rate of return area, where this Office has carried an overflow from OAF, he developed an econometric model which can be used in conjunction with conventional analytical techniques to derive reasonable estimates of the cost of equity capital to regulate companies. He submitted his study as part of his testimony in *Florida Power Corp.* (Docket No. E-7679) and it can easily be updated for use in subsequent cases.

2. In the area of competition and market structure, his testimony in *Northern Michigan Exploration Company* (Docket No. CI72-301) is an excellent example of his ability to analyze novel and complex economic issues and explain his research findings to non-economists.

3. The same skills were demonstrated in his testimony in *Belco* (Docket No. CI73-293) which is the first "optional pricing" proceeding. Here he was able to set forth, for the first time, a detailed analysis of cost and non-cost factors to be considered in approving above-ceiling rates, and he supported his testimony with original studies of market structure and behavior in the gas producing industry. His performance on cross examination has been hailed by several observers as "brilliant."

4. He contributed in a major way to the successful disposition by the Commission of the important *Southern California Edison* case (Docket No. E-7618).

5. Among this special assignments for the Chairman and for which he was given exceptional praise are his paper on economic assumptions for the National Power Survey and his analysis of the "inverted rate structure." (The former was used by the Chairman at the last EAC meeting and the latter was used in the Chairman's NARUC speech.) In response to a special request from the Chairman, he prepared a comprehensive background paper for the Chairman's use in his appearance before the Joint Economic Committee in June 1972.

6. Under Dr. Wilson's leadership a functioning FPC-AEC liaison relationship has been established for coordinated interagency consideration of antitrust issues in AEC licensing proceedings. In effect, Dr. Wilson has become the "mentor" of the AEC staff assigned to this work. This arrangement was approved by Chairman Nassikas.

7. The past year has seen heavy involvement by this Office in the incremental pricing issue for LNG imports, fuel adjustment clauses for electric utilities, pipeline curtailment policies, and area rate rulemaking. In each case Dr. Wilson prepared basic analytical papers and policy recommendations which were used in the staff presentations to the Commission.

8. Unlike the typical FPC staff representative on NPS Task Forces, he has carried a leadership role in the NPS Task Force on Finance; in recognition of his exceptional abilities, he has been invited as a "guest lecturer" by the EPA staff and the AEC Licensing Board.

To fulfill these and other equally important responsibilities Dr. Wilson has been regularly working evenings and weekends. His diligence and public service dedication are truly exceptional—and admirable. In every conceivable way his performance during his first year as Division Chief meets the most stringent criteria for an Outstanding Performance.

FEDERAL POWER COMMISSION

CERTIFICATION FOR QUALITY PAY INCREASE

Name: John W. Wilson. Grade: GS-15. Bureau or Office: Office of Economics.
 Title: Supervisory Economist.

I certify that the above named employee's performance has been evaluated against the appropriate elements of the rating guide on the reverse side of this form. He has substantially exceeded normal requirements for the past 12 months and in my opinion will continue at this high level. I recommend a high quality performance increase based on the following justification: (There is additional space on the reverse side which may be used if needed.)

Clear evidence of Dr. Wilson's exceptional performance during the past year with respect to all of the rating guide elements is provided by his testimony in several rate and certificate proceedings. His testimony invariably has reflected sound judgment and original thinking of the sort that is needed in meeting today's regulatory problems. It is remarkable, too, that he was able to carry responsibility for staff testimony on a variety of difficult policy issues: rate of return, antitrust, and optional pricing. Such versatility and skill certainly deserves recognition in the form of a quality pay increase.

Dr. Wilson has also shown outstanding leadership ability by increasing both the quality and quantity of output by his staff. As a result, the Office has been able to contribute more extensively to Commission-wide activities than was possible in earlier periods.

In various special assignments for Chairman Nassikas, Dr. Wilson again demonstrated unusual ability in providing exactly what was needed and in a very expeditious manner. Time and again his accomplishments were given special recognition by the Chairman.

Date: April 23, 1973.

Signature and title of reviewing official:

DAVID S. SCHWARTZ,

Assistant Chief, Office of Economics.

Signature and title of bureau or office head:

HASKELL P. WALD.

Chief, Office of Economics.

RATING GUIDE

The elements listed below are of a general nature and may be expanded or deleted according to the requirements of the particular position.

1. *Quality of work.*—Consider neatness, accuracy, usability of final work product; manner of presenting ideas and facts.

2. *Quantity of work.*—Consider volume of work produced under normal conditions; consistency of performance and production.

3. *Dependability.*—Consider manner in which he applies himself to his work; meets deadlines; availability of work (leave record); the amount of supervision required; the will to accept responsibility; punctuality.

4. *Cooperation.*—Consider attitude toward work, superiors, and associates; willingness to work for and with others; ability to adjust to changing conditions; and emotional stability.

5. *Initiative and creativeness.*—Consider work industry and effort; ability to work along original lines; ingenuity; and ability to apply creative professional ideas.

6. *Soundness of judgment.*—Consider wisdom of decisions; intelligence and logic displayed; and maturity and timeliness of decisions or recommendations.

7. *Supervisory ability or leadership.*—Consider ability to plan, direct, review, and coordinate work of subordinates; coordinate work for which responsible with other offices of the Commission; promote high employee morale; and develop subordinates.

As Chief of the Office, I have had many occasions to compliment Dr. Wilson on his initiative and creativeness, which has been reflected in numerous position papers we have prepared for the Commission. His cooperativeness has been exemplary at all times.

JUNE 7, 1972.

**RECOLLECTIONS OF JOHN WILSON RE REQUESTS FOR GAS RESERVES DATA FROM
BUREAU OF NATURAL GAS**

Webster Maxson came to my office at about 5:15 to inquire about the details of OEC's request for a compilation of reserve data which was made to BNG in March. I told him that we had made such a request sometime in March and that we were initially told that the data had been destroyed. Subsequently, I said, Dr. Wald made the request directly to Mr. Joyce and that sometime later we did receive a tabulation of the data requested.

Upon examination of that data, we observed several apparent errors or inconsistencies and therefore we attempted to obtain a correction or verification from BNG. At that time we were told that the data really had been destroyed and that correction or verification would not be possible.

Mr. Maxson indicated that it had not been destroyed—that the reports had been torn, but they were now repaired and in Mr. Joyce's custody. I asked Mr. Maxson whether we would now be able to obtain the data which we had requested earlier. He advised that a request for this data be addressed to the Chief, BNG. I indicated that we probably had a memorandum pertaining to our original request, and he indicated that he wanted a copy of that.

I reported this conversation immediately to Dr. Wald. He then gave me a copy of a memo dated 4/6/73 from Mel Kofkin to me indicating that Mr. Mangen was the individual in BNG who had informed us that the data had been destroyed and that correction or verification was impossible. Dr. Wald also gave me a note which I had written at the time of the Kofkin memo. The note was addressed to Dr. Schwartz and Dr. Wald and it indicated my displeasure with the degree of co-operation which we had received from BNG. Dr. Schwartz had jotted his concurring remarks on the note.

I took that material immediately to Mr. Maxson and showed it to him. I said that I would give him a copy first thing in the morning. I again asked him if he was certain that the data were in existence so that our compilations could be completed. He assured me that they were and proceeded to hand me a 2 page typed description of the events surrounding the attempted destruction. He stated that the description had been furnished to him by Mr. Vivian.

I returned the typed pages to Mr. Maxson and reported back to Dr. Wald. I told him about the events as described in the Vivian "memo." Mr. Sewell was present during at least part of this conversation, but he did not participate. This document was merely a typed scenario, it was not dated or signed. I also discussed these events with Dr. Schwartz.

The next morning, Friday, June 8, I obtained Xerox copies of the two documents which I had shown to Mr. Maxson on Thursday, and at about 8:15 Dr. Schwartz and I took them to Mr. Maxson's office. We discussed the events briefly and I asked Mr. Maxson whether in fact it had been established that BNG attempted to destroy the data several weeks after they had told us that it had already been destroyed. Mr. Maxson took the typed scenario from his desk drawer and pointed out to Mr. Schwartz and myself that it was apparently not until April 24 that Mr. Mangen gave the data to Mr. Vivian for destruction.

Between 8:30 and 9:00 a.m. on Friday, I talked with Mel Kofkin about this matter. I did not give him all the details, but I did tell him that apparently BNG still had the data which we had been told were destroyed. I asked him whether he had any written materials pertaining to our request. He gave me several hand written notes which I copied along with one page from his diary. I advised him to hold onto these documents and to be fully cooperative and candid with any FPC officer who might wish to question him on this matter.

Later in the day I proceeded to draft a memo to the Chief, Bureau of National Gas, reconstituting our request for a tabulation of verified concentration ratios. The draft also requested that he reconsider his earlier determination that the aggregated data be classified as "administratively confidential." I took a copy of this draft to both Mr. Maxson and to Mr. Forquer for their review. Mr. Maxson advised certain editorial changes with which I complied and Mr. Forquer indicated that certain language should be changed so as not to imply that he believed that the BNG data were not "administratively confidential." I made that change as well.

I delivered copies of the memo to Mr. Maxon and to Mr. Forquer's office (he was not there) at about 5:30 on Friday 6/8. I attempted to deliver the original to BNG, but the office was locked, and Mr. Cornelius, who I saw in the hall, said that he did not have a key. I returned to OEO and gave the original to Mrs. Parkhurst who said that she would leave instructions for one of the secretaries to deliver it at 7:30 on Monday.

Dr. Wald called me at about 2:00 p.m. on Saturday afternoon to inform me that a Washington Post reporter had just called him regarding this matter and that he apparently had all of the details. Dr. Wald appeared to be quite upset about this and he told me that he had told the Post reporter that he could not comment. He also indicated that he was going to report this to Mr. Maxson.

I stopped by the Office at about 3:00 p.m., and talked briefly about the matter with Dr. Wald and Dr. Schwartz. Mrs. Parkhurst was also at the Office. Dr. Wald was still quite troubled and felt that this story, if reported, would be very bad for the Office because there would be some people in the Commission who would accuse the Office of "leaking" the story to the press.

JUNE 14, 1973.

Memorandum to: Executive Director.

From: General Counsel.

Subject: Answers to inquiries with respect to Commission business.

No member of the staff receiving requests for information from any person is entitled to reveal the contents of any data received by the Commission under assurance of confidential treatment. This prohibition extends to intra-office memoranda or other matter, which by their very nature, would reveal the content of such confidential documents.

Only the Commission can authorize any change in its rules or its orders.

LEO E. FORQUER.

JUNE 15, 1973.

Memorandum to: The Chairman.

From: General Counsel.

Subject: Recommended action in response to congressional committee request for confidential gas reserves data in custody of the Federal Power Commission.

The following memorandum was prepared in response to an inquiry as to the authority of a Congressional committee to require public disclosure of information submitted by natural gas producers to the Commission upon its representation that such information would be treated confidentially without public disclosure. On the basis of the facts provided, it is concluded that release of this information by this Commission would be improper absent a court order directing its publication.

I. FACTUAL BACKGROUND

On November 4, 1970, the Commission issued its Policy Statement, Notice of Investigation and Proposed Rulemaking With Respect to Developing Emergency Plans in Docket No. R-405, 44 FPC 1347. Among other things, this notice sought to elicit information sufficient to permit the assessment of the future adequacy and reliability of the interstate gas supply. Accordingly, producers were requested to report any holdings of proven natural gas reserves in any area which had not been contracted to pipelines or direct customers. 44 FPC at 1351. The producers were assured that, although the information would be received on a company-by-company basis, only composite figures for the industry would be released to the public and that the material received would be treated in a confidential manner. The Notice was updated on September 12, 1972, Order Updating Nationwide Investigation, 48 FPC — (1972), and further assurance was given:

"For the purposes of this investigation no responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b) (4) and (9)."

As a result, the desired information was requested of and received from some 79 gas producers, representing all of the large gas producers whose individual jurisdictional sales of natural gas totalled in excess of 10 million Mcf annually.

Senator Hart of the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary has requested by letter that the Commission appear before that body and produce the data filed by each individual company. The question is whether in light of the circumstances by which the Commission obtained this information the Commission or any member is required to produce the data requested to the Committee.

II. DISCUSSION

There are two general considerations involved here: the express or implied statutory authority or privileges governing disclosure which have been conferred upon the agency by the entire Congress and the nature of authority upon which the subcommittee asserts as a basis justifying cause to override any privilege of an agency to withhold information arising from express or implied statutory powers.

A. Statutory authority

While it cannot in itself be considered as an ultimate limitation on the authority of Congress to require production of data, the Natural Gas Act provides the foundation for legitimately withholding the information from the subcommittee until a contrary order is issued by an appropriate court. Section 8(b), 15 U.S.C. § 717g(b), provides in pertinent part:

"No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books, records, data, or accounts, except insofar as he may be directed by the Commission or by a court."

Although neither this portion of Section 8(b) nor a similar provision of its counterpart, Section 310(b) of the Federal Power Act, 16 U.S.C. § 825(c), have been judicially construed, in *Electric Bond & Share Co. v. S.E.C.*, 303 U.S. 419 (1938), the Supreme Court interpreted similar language as "intended to safeguard particular information which may be regarded as of private or confidential character and as not directly concerning the public interest." 303 U.S. at 438. Thus, it appears that the rationale for including such provisions in a statute must be to encourage the voluntary submission of information by the public to an agency so that the particular agency may better discharge its regulatory functions.¹ This obviously valid purpose would not be served if the Commission transmitted the gas reserve data received from producers to the Congress for public disclosure.

The reluctance in the past of producers to provide this information to the Commission on a voluntary basis can only be reinstated and heightened by disclosure of the information. Senator Hart's own letter of March 7, 1973, to Chairman Nassikas indicates a recognition of past reluctance of producers to disclose reserve data. Disclosure of this information would clearly have a chilling effect upon the attitudes of producers concerning the release in the future of this kind of information to the Commission. As noted above, the reserve data was solicited with the Commission's representation that the confidentiality of the material would be preserved in accordance with this section. Its disclosure by the Commission would repudiate this representation in apparent contravention of the Natural Gas Act and the standards of administrative due process and fairness.

Moreover, the extent of the restriction upon disclosure in Section 8(b) is not apparent from the legislative history of the Natural Gas Act. It is not clear from the language whether Congress meant the Section to restrict disclosures to itself. The committee reports summarizing Sections 8 of the Natural Gas Act and its sister section in the Federal Power Act, Section 301, that resulted in their enactment do not even mention the portions of those sections relevant here, and no debate on them appears.

The language of the Freedom of Information Act (5 U.S.C. 552), "This section is not authority to withhold information from Congress" (5 U.S.C. 552(c)), indicated Congress recognized that it could legislate to permit agencies to withhold information from Congress if it so chose but that it chose not to extend to itself the applicability of the exemptions in the Freedom of Information Act. On the other hand, the lack of such a disclaimer in the Natural Gas Act indicates a contrary intent with respect to information falling within the scope of Section 8. Language similar to that in Section 552(c) in the Freedom of Information Act

¹ Similar logic has given rise to an informer's privilege to aid criminal law enforcement officials. See *Roviaro v. United States*, 353 U.S. 53, 59 (1957).

was included in the new Federal Aviation Act of 1958 (a revision of the Civil Aeronautics Board Act of 1938, 49 U.S.C. 622, 902(f)) following a controversy between the Civil Aeronautics Board and the House Committee on Interstate and Foreign Commerce similar to the question here. This reinforces the theory that the absence of such language implies that the limitations in Section 8(b) apply to Congress as well as the general public. See P.L. 85-726, 49 U.S.C. 1472.

The rule of statutory construction that the sovereign cannot be bound by its own statute unless named in it, *U.S. v. United Mine Workers of America*, 330 U.S. 258, is not applicable here. In a case where statutory language similar to 8(b) was interpreted, the Supreme Court discussed that rule but found more relevant the principle of statutory construction that the sovereign is embraced by general words of a statute (or a section of a statute) intended to prevent injury and wrong. *Nardone v. U.S.*, 302 U.S. 379, 384. *Nardone* involved interpretation of a section of the Communications Act of 1934 (47 U.S.C. 605) similar in purpose (i.e., to prevent disclosure of information) but not identical in language, to Section 8(b) of the Natural Gas Act. More recently, it has been held that, "Where the accomplishment of the clearly manifested legislative purpose of the statute would be frustrated unless the statute was applied to the government, the courts will not resort to a rule [the *United Mine Workers* rule] whose purpose is but to resolve doubts where the statute's aims are unclear." *National Association of Letter Carriers v. U.S. Postal Service*, 333 F. Supp. 566, 570 (1971). There is no doubt that the legislative purposes of the Natural Gas Act to regulate the natural gas industry would be severely hampered if Section 8(b) is not applicable to the Subcommittee's request and if the reserve data is required to be provided for public disclosure. Moreover, it may also be significant that involved here are two parts of the federal government, a subcommittee and an agency; additional policy considerations are significant here that were not relevant in cases involving the government on one side and a private party on the other as in the *United Mine Workers* case, *supra*.

Consequently it is possible that in enacting these FPC statutes Congress intended to exclude from itself, except as specifically provided elsewhere by Congress, information available to the Commission. This limitation would only apply where both the Commission in its discretion and the Courts, in weighing a Congressional committee's stated *ad hoc* purpose and need for data against both constitutionally protected private interests and the impact upon an agency's ability to carry out broad and comprehensive duties under enabling legislation,² determine confidential information need not be disclosed to a Congressional committee.

This is not to say that Congress could not legislate to obtain this information, but where existing Congressional legislation precludes disclosure in recognition of the proprietary nature of certain information, logic would indicate that, in the absence of either legislative history upon the point or *ad hoc* legislation specifically overriding the directive of the Natural Gas Act, as Congress did with the Civil Aeronautics Board statute, the restriction upon disclosure applies to Congressional committees as well as to the public unless, of course, the committee itself has received the requisite authority from the Congressional body.

While the Commission undoubtedly has authority under Section 8(b) to permit release of the information, the more pertinent question in light of the background of this data is whether the Commission should breach its confidence with the producers and direct that this data be released. Moreover, the exercise of such authority could probably be attacked as a denial of due process. The Supreme Court has consistently held that where agencies have laid down their own procedures and regulations, those procedures and regulations cannot be ignored by the agencies themselves even where discretionary decisions are involved. *E.g. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Service v. Dulles*, 354 U.S. 363 (1957); *Yellin v. United States*, 374 U.S. 109 (1963). In this instance, where the Commission has established procedures for submission of information on a confidential basis, publication of the material would clearly contravene this line of cases. Also, the producers, the real parties in interest, would not have had opportunity to oppose the disclosure of this confidential information—in fact, few may even be aware of the disclosure of the information to Congress before it is done. Accordingly, the Commission could, and should, withhold the data until and if compelled to produce it by court order.

² Cf. *Watkins v. US* 354 U.S. 178 at 198.

B. Nature of the Subcommittee's Authority

Research indicates that Congress has not, in fact, provided generally that an independent commission must produce confidential information, which it withholds at its discretion, to Senate standing committees. The Attorney General, in construing the authorizing legislation relating to Senate standing committees, particularly Sections 134(a) and 136 of The Legislative Reorganization Act of 1946 (August 2, 1946, c. 763, Title I; 60 Stat. 812, 831, 832; 2 U.S.C. 190b, 190d)³ determined that:

"* * * there is no basis whatsoever for finding in Sections 134(a) and 136 of The Legislative Reorganization Act any requirement that the [Federal Communications] Commission must produce confidential information which it withholds in its discretion * * * therefore, although I find the Commission is authorized by law to make the requested information available to the Senate Committee, such authorization does not constitute in any sense a requirement or direction that the information should be divulged to the Committee."⁴

In that opinion, the Attorney General also advised the President that the FCC could disclose confidential information concerning television stations to Congressional committees without violating a specific provision of the penal statutes.

Senate Resolution 56, Sec. 4,⁵ authorized expenditures by the Committee on the Judiciary, of which the Subcommittee on Antitrust and Monopoly is a part, for, *inter alia*, "a study or investigation of antitrust and monopoly," from March 1, 1973 to February 28, 1974. The resolution indicates, however, these expenditures are for carrying out the authority granted by Sections 134(a) and 136 of The Legislative Reorganization Act of 1946 and Rule XXV of the Standing Rules of the Senate. The Attorney General's memorandum already noted indicates the limitations of Sections 134(a) and 136. Rule XXV provides authority to the Standing Committees, not subcommittees. The Rule gives the Committee on the Judiciary authority to consider the protection of trade and commerce against unlawful restraints and monopolies. We have not been advised by the subcommittee of any other specific basis for its requests nor for the need for this information in meeting its delegated authority. The letter of March 7, 1973, from Senator Hart states only that, "Congress is deeply concerned about the present unavailability of natural gas and has been conducting continuing hearings on its causes and extent." The nature of his subcommittee's involvement and authority is not described. The Senator's letter of May 18, 1973, indicates its present hearings concern the nature and extent of competition and concentration in the natural gas industry but again the nature and extent of its authority is not indicated.

Finally the Freedom of Information Act provides that certain materials are exempt from the disclosure provisions of that Act. Applicable here are exceptions 4 and 9 of the Act relating to trade secrets and geologic data. (5 U.S.C. 552(b)(4), (b)(9)). The Act states, however, that those exemptions may not be used as a basis for withholding information from Congress. Yet, the extent and intent of the word "Congress" is not delineated, i.e., whether it means all of Congress, a duly authorized Committee of Congress, a member of a Committee acting without specific approval of the full Committee, or any Congressman. The legislative history makes a distinction between Congress and a member of Congress, saying a member of Congress has the same right to information as "any person" and noting, "Congress has additional rights of access to all Government information which it deems necessary to carry out its functions."⁶ The intended status of a subcommittee in light of that Act is not discussed.

III. CONCLUSION

In my view the Commission can and should seek to maintain the confidentiality of the reserve data. Disclosure of the data to the subcommittee *per se* would not violate the privileged nature of the data, but public disclosure of the material in turn by the subcommittee or its members would, of course, violate the privilege. On the other hand, it is not clear that public disclosure by the committee of the raw reserve data would meet any legislative purpose relevant here. Unless the subcommittee indicates it would honor the confidential nature of the material as it relates to individual producers, the request for the reserve data should be denied at this time.

³ Amended, 84 Stat. 1143-9, 84 Stat. 1440, 84 Stat. 1156. These 1970 amendments did not alter the substance of the delegation of authority thereunder.

⁴ 41 Op. Att'y. Gen. 221, 225-9 (1955).

⁵ Cong. Rec. S. Res. 56, 93d Cong. 1st Sess., 119 Cong. Rec. S3517 (1973).

⁶ U.S. Code Cong. Adm. News, 89th Cong., 2d Sess., 1966, p. 2429.

Finally, the issue involved is of such importance both with respect to this Commission's future ability to carry out investigations relating to gas reserves and with respect to other investigations concerning privileged information which may arise and with the overall ability of this Commission to carry out its duties efficiently under the Natural Gas Act and the Federal Power Act that unless the confidentiality of the information can be assured, judicial determination of the issue is desirable.

LEO E. FORQUER, *General Counsel.*

JUNE 18, 1973.

Memorandum to: Chief, Division of Economic Studies.
From: Chief, Bureau of Natural Gas.

In response to your memorandum of June 8, 1973, requesting information on uncommitted natural gas reserves, the attached compilation, prepared by the Bureau of Natural Gas Staff and available in the Commission's public files, tabulates the uncommitted reserves reported by the 4, 8 and 20 companies reporting the largest volume of uncommitted reserves in each of the areas. Where less than 4, 8 or 20 companies reported uncommitted reserves in a given area, this is so noted.

THOMAS J. JOYCE.

Attachment.

UNITED STATES UNCOMMITTED RESERVES,¹ PERCENT BY AREAS BY LARGEST PRODUCERS[In millions of cubic feet at 14.73 lb/in.²a]

Area	December 31, 1971						June 30, 1972					
	4 largest		8 largest		20 largest		4 largest		8 largest		20 largest	
	Total gas	Percent	Total gas	Percent	Total gas	Percent	Total gas	Percent	Total gas	Percent	Total gas	Percent
South Louisiana:												
Onshore	554,336	96.9	570,025	99.6	4,572,157	100.0	368,284	92.3	392,577	98.4	4,398,830	100.0
Offshore Federal	661,039	57.0	966,107	83.3	1,157,005	99.8	715,012	49.6	1,080,819	74.9	1,440,192	99.9
Offshore State	32,853	84.5	38,893	100.0	4,38,893	100.0	30,142	94.9	3,31,752	100.0	4,31,752	100.0
Texas Gulf Coast:												
Onshore	278,398	89.4	301,013	96.7	4,311,266	100.0	291,241	84.4	3,18,858	92.4	4,344,917	100.0
Offshore Federal	301,033	98.5	305,574	100.0	4,305,574	100.0	2,152,624	100.0	3,152,624	100.0	4,152,624	100.0
Offshore	215,000	100.0	315,000	100.0	4,15,000	100.0	2,46,900	100.0	3,46,900	100.0	4,46,900	100.0
Offshore State	282,926	63.6	384,710	86.4	445,046	100.0	256,970	80.6	300,547	94.2	4318,976	100.0
Permian Basin	32,669	76.6	40,289	94.5	442,624	100.0	34,367	62.6	45,729	83.3	4,54,866	100.0
Hugoton-Anadarko	514,671	93.3	543,875	98.6	4,551,694	100.0	161,500	94.4	169,943	99.3	4,171,061	100.0
Other Southwest	152,700	63.4	199,739	82.9	239,206	99.2	186,319	70.4	227,586	86.0	263,077	99.3
Rocky Mountain	10,711	99.6	10,752	100.0	4,10,752	100.0	11,608	100.0	3,11,608	100.0	4,11,608	100.0
Appalachian												
Unclassified:												
Michigan	23,484	100.0	33,484	100.0	4,3,484	100.0	0	0	0	0	0	0
California	56,229	95.4	58,911	100.0	4,58,911	100.0	75,066	94.3	83,79,568	100.0	4,79,568	100.0
Miscellaneous	54,257	87.7	61,808	99.9	4,61,808	100.0	80,824	98.0	82,420	100.0	4,82,470	100.0
Lower 48	1,982,757	51.9	2,727,701	71.5	3,512,751	92.0	1,645,575	48.4	2,296,178	67.5	3,154,368	92.7
Alaska	1,710,955	93.9	1,821,722	99.9	4,1,822,861	100.0	1,705,455	93.9	1,816,193	99.9	4,1,517,181	100.0
Total United States	2,897,635	51.4	4,284,065	75.9	5,300,064	94.0	2,661,923	51.0	3,854,799	73.9	4,947,831	94.8

¹ Does not include 26,000,000 in North Slope reserves reported in the aggregate for all companies by one producer.² Less than eight firms.
³ Less than four firms.⁴ Less than 20 firms.

JUNE 19, 1973.

Memorandum to: Haskell Wald, Chief, Office of Economics.
 From: The Chairman.

As Chief of the Office of Economics, it is requested that any inquiries by your staff for confidential data be channeled through you to me as Chairman of this Commission, with copies of your request to all Commissioners, rather than directing your inquiry to employees of this Commission who do not have the authority to transmit such data without authorization of this Commission.

JOHN N. NASSIKAS.

FEDERAL POWER COMMISSION,
 OFFICE OF THE EXECUTIVE DIRECTOR,
 Washington, D.C., June 22, 1973.

Memorandum to: Leo E. Forquer, General Counsel.

From: Executive Director.

Subject: Subpoena for the production of documents relating to the Commission's order of September 12, 1972, updating its nationwide investigation of uncommitted gas reserves.

In November and December 1972, gas producers submitted to BNG certain confidential information relating to gas reserves pursuant to the subject order, and the Commission published a staff report thereon on February 22, 1973. Thereafter the materials filed by the companies were delivered to the Office of Administrative Operations for destruction.

On Wednesday of this week, June 20, 1973, I asked you to furnish me with all papers and notes of any kind which might be in your possession relating in any way to the act of delivery of these confidential materials to OAO for destruction or which might explain the reason for the attempted destruction.

Last night the Senate Judiciary Subcommittee on Antitrust and Monopoly served upon the Chairman what purports to be a subpoena commanding the production of [(1) all papers and notes of any nature referring to or relating in any way to the Commission's September 12, 1972, order in R-405 directing the production of company data on uncommitted gas reserves,] [and (2) "all work-papers and composites" prepared from the materials filed by producers pursuant to the Commission's September 12, 1972, order in R-405.]

This expands the inquiry far beyond the matter of the attempted destruction of the confidential company filings. Please search your desk, files, and office for any piece of paper which might come within (1) or (2) above and bring it personally to my office before 1:00 p.m. today.

If you can find no such paper, advise me by telephone (Ext. 3504) immediately upon completion of your search.

WEBSTER P. MAXSON,
Executive Director.

FEDERAL POWER COMMISSION,
 OFFICE OF THE CHAIRMAN,
 Washington, D.C., June 22, 1973.

Memorandum to: Leo E. Forquer, General Counsel.

From: Chairman Nassikas.

Subject: Senate Judiciary Subcommittee subpoena duces tecum.

Last night staff members of the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary served upon me a subpoena commanding the production on Tuesday, June 26, 1973, of all papers "of any nature whatsoever" referring to or relating to the Commission's investigation under its September 12, 1972 order in Docket No. R-405. A copy of the subpoena is attached. Appendix A thereof describes the papers to be produced.

Today the Commission modified its September 12, 1972 order to authorize me to turn over to the Subcommittee all materials received or prepared pursuant to the September 12, 1972, order which are being maintained in confidential status pursuant to that order. Absent restraint by a court of competent jurisdiction, I shall deliver all such materials to the Subcommittee on June 26, 1973, under protest and with a request that the Subcommittee maintain the confidentiality of the materials established by the Commission's September 12, 1972 order.

This memorandum is to impose upon you the responsibility of delivering to the Executive Director before 12:00 noon on Monday, June 25, 1973, all writings and records in the Office of General Counsel which may be within the description set forth in Appendix A of the Subcommittee subpoena.

This will include all letters, memoranda, notes on telephone or other conversations, notations to yourself or your employees, written communications with me or other bureaus and offices, communications with the Subcommittee, and any other writings "of any nature whatsoever" in the possession of anyone in your Office.

To date, I have cooperated fully with the Subcommittee in its investigation in every way that I appropriately could do so and intend to continue to cooperate fully by producing immediately without protest all papers which do not violate the confidentiality of the documents received or prepared pursuant to the September 12, 1972 order. This will include all worksheets and schedules prepared by the staff which do not identify data with particular companies.

Please respond to this direction by memorandum to me listing all of the materials which you are turning over to the Executive Director.

JOHN N. NASSIKAS, *Chairman.*

FEDERAL POWER COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, August 23, 1973.

Memorandum to: Chairman Nassikas.
From: General Counsel, Executive Director.

This information is in response to your request concerning the location of the worksheets submitted in the initial investigation in Docket No. R-403.

Pursuant to the Commission's order of November 4, 1970, in Docket No. R-405, three investigating officers obtained data from natural gas producers concerning volumes of natural gas available for sale as of December 31, 1969 and October 1, 1970. This uncommitted reserve data was transposed to worksheets, without identification of the individual producer which submitted such data, and formed the basis of the report to the Secretary of the Commission by the three investigating officers of March 8, 1971.

As of the date of this memorandum, having directed a diligent search to locate the worksheets prepared in conjunction with the initial R-405 investigation, we have been unable to locate such worksheets. We will continue to direct efforts at locating those worksheets, as well as to ascertain their disposition, and we will so advise you.

LEO E. FORQUER, *General Counsel.*
WEBSTER P. MAXSON, *Executive Director.*

STATEMENT OF JAMES R. TOURTELLLOTTE, TRIAL ATTORNEY, FEDERAL POWER COMMISSION

Pursuant to the Commission order of November 4, 1970 in Docket No. R-405, I devised a system of collecting data for the National Investigation of the Reliability of Gas and Electric Service.

The Commission's order of November 4 specified that information collected would be held on a confidential basis. I was concerned about the physical and security problems inherent in holding vast amounts of materials. Consequently, a system of data collection was designated specifically to avoid those problems.

On November 20, 1970, I sent a letter with a questionnaire attached to 75 major gas producers in the United States. Under the terms of that letter, the companies were requested to prepare answers to a questionnaire and present the information to our staff in Houston, Texas, Tulsa, Oklahoma, or Washington, D.C.

Subsequently, two members of the Office of General Counsel and two members of the Bureau of Natural Gas were dispatched to the Cities mentioned for the purpose of acquiring the data. The procedures used by the staff in data collection were relatively simple: (1) A company brought the information to the staff; (2) the staff copied the company figures on FPC work papers in the presence of a company representative; (3) the company papers were returned to the representative immediately after copying; (4) the staff checked the company name off the list to indicate a response.

The staff work papers did not indicate what figures belonged to what companies. After the staff had collected information in all three geographic locations, the figures were composited and reported to the Commission. The work papers were deposited by Mr. Williams in a safe belonging to the Office of Administrative Operations. The reason for doing this was that, it was my opinion that the Commission order required that information to be held confidential even though the information was not identifiable by company name. Moreover, in my discussions with our technical people I was informed that someone with knowledge of the industry could piece together the information provided on our forms with other available information and make a fairly reliable educated guess as to what company operating in a given area belonged to our figures.

At no time did I instruct Mr. Williams or Mr. Brady or any other member of our staff to destroy or otherwise dispose of the work papers which we developed during this initial phase of the investigation in Docket No. R-405.

JAMES R. TOURTELLOTTE.

TIME SEQUENCE—GAS RESERVES

(Diary entries of Melvin Kofkin)

- Feb. 27, 1973 Tuesday—Received initial assignment from Dr. Wilson. In conversation with him the assignment was clarified and he indicated that he wanted concentration ratios for four and eight largest companies. I called a number of people in BNG, I don't know who I started with, but eventually I was steered to Victor Zabel who told me that the data were confidential by terms of the original order and had been destroyed. I gave this information to Dr. Wilson who indicated that he would take it from there.
- Mar. 21, 1973 Wednesday—Date of memorandum from Joyce to Chief, Office of Economics (H.P.W.) informing us that Mangen composited the required information and the tabulation is attached.
- Mar. 22, 1973 Thursday—Date of memorandum from H.P.W. to Dr. Wilson indicating that information had been received on uncommitted reserves. (Copy at Tr 18) This Memorandum was given to me as part of the assignment.
- Mar. 29, 1973 Thursday—Probably received assignment on calculation of concentration ratios. Assignment must have been received between 3/22 and 3/29. (my folder is marked 3/73 and usually I mark folder with month in which I receive assignment).
- Mar. 30, 1973 Friday—Sick Leave—All day.
- Apr. 2, 1973 Monday—Worked on concentration ratios. I found errors in the data furnished by Mangen—The quantities of reserves shown for certain areas were too large—The totals for the top 4 & 8 were larger than the total reported for all producers. I called Mangen in late afternoon to let him know about it. He said he would check it and let me know.
- Apr. 3, 1973 Tuesday—Mangen called me about 8:45 and told me information would be corrected. I suggested to him that I come over to GAO building to pick it up. He agreed. I went to his office, but did not see him, instead I got the corrections from Mr. Pavetto of BNG (he was in outer office near Mangen's office.) Corrections were given to me verbally and I wrote them down longhand. Time was about 3:30.
- Apr. 4, 1973
or
Apr. 5, 1973 Wednesday or Thursday—While working on concentration ratios I found what appeared to be errors in the public document. I was using public figures as denominator for my ratios. I went to see Mangen in his office on either 4/4 or 4/5 and spoke with him. Mangen told me the public figures could not be checked since the source material had been turned over to the "security people" at some earlier time—The time frame seems to be in the nature of "last week or so". I completed the calculation of concentration ratios making assumptions as to the correct total public figures.
- Apr. 6, 1973 Friday—Date of final memorandum to Chief, Division of Economic Studies (Dr. Wilson). I had made an intensive effort to complete the assignment by Friday since J.W. was scheduled to leave town then. I gave him a copy of the worksheet and memorandum. (copy of memo at Tr 20-21)

Apr. 9, 1973 to Apr. 12, 1973 Monday to Thursday—Dr. David Schwartz (Asst. Chief, Office of Economics) requested that concentration data be put in more compact and readable form. This was done and I have corrected table typed 4/12/73 by Mrs. Lillie Ventura. The table was never given to Dr. Schwartz—I cannot remember reason for not turning it over—Most likely I did not have time to write covering memorandum and forgot about it in press of other work.

June 8, 1973 Friday—Led to believe that Mangen will furnish corrected data. I thought this was said to me by J.W.—Diary entry only indicated that "Mangen will provide corrected material."

June 13, 1973 Wednesday—Found note on my desk in the morning indicating that Mangen had called to get copy of concentration ratio work sheet he had given me. I had given him a copy at an earlier time but it was not too legible. He came up about 10:00 AM for a copy I prepared.

STATEMENT OF GEORGE VIVIAN RE GAS RESERVES DOCUMENTS

Approximately April 24, 1973, Mr. Lawrence Mangen brought a stack of documents to my office (room 2051, GAO Building). He asked if I handled distribution of "classified" papers. I told him that I was responsible for destroying national security classified materials. He told me the documents he had (a stack about 6 inches thick) were company confidential letters from utility companies and were to be destroyed per instructions from the companies concerned. I told him I would burn them on my next visit to incinerator but would not give him a receipt nor list them on a destruction certificate, which is a requirement for national security classified materials. He agreed and stated that he had no more interest in the documents.

The documents were stored in one of the classified security containers in OAO. I planned to destroy by burning a number of classified documents prior to the move from the GAO Building to 825 North Capitol Street. Approximately May 3, in the presence of Mrs. Sue Hyde, I prepared the Mangen documents for ultimate destruction by tearing them into four pieces and placing them in a double paper bag. This is normal procedure for destruction by incineration. Before I could actually burn the documents, the incinerator I had been using was closed and I was unable to make other arrangements before the move.

Approximately May 22 Mr. Mangen telephoned to ask if the documents had been burned. When I explained what had been done he asked if he could look through the pieces to locate a particular set of papers. He did so and found what he wanted. Early on May 23 he came to my office to look for additional pieces and indicated he may have need for all of them. I then started separating the classified pieces from the utility company documents. While doing this, Mr. Thomas Joyce came to the office and started helping me. Mr. Maxson arrived a few minutes later and shortly thereafter the separation was complete. Mr. Joyce then took the utility company material to his office.

NATIONAL SUPPLY TEAM

Docket No. or applicant	Staff	Proposal	Status
National gas survey.....	Zabel Thompson, Lindwell Olson, Barnes, Bailey.	Completing work on minor fields.	Nearly completed, construction date Apr. 13, 1973. In progress.
Indepth pipeline studies.....	Thompson, Barnes, Bailey, Boush.	Completed draft report; preparing from 15 summaries for pipeline to be scheduled.	In progress.
Offshore lease sale studies.....	Zabel.....	Analysis of various factors in offshore lease sales.	Report in preparation.
Miscellaneous:			
Reserve dedication reports ¹	Zabel, Olson.....	Assistance to interstate supply team in analyzing reserves.	In progress.
Form 15.....	Olson.....	Assistance to computer projects units.	Nearly completed.
R-405.....	Manger, Poudl, Pavith....	Preparation of data from R-405 (uncommitted gas reserves) for composite report for DEC per Pet. Chief.	Complete confidential work papers destroyed.
Indepth Public Law studies.	Dante.....	Preparation of background data for reports.	In progress.

¹ Estimate additional people will be assigned to this project, workload increasing rapidly.

UNITED STATES OF AMERICA FEDERAL POWER COMMISSION (18 C.F.R. PART 2)

Before Commissioners: John N. Nassikas, Chairman; Albert B. Brooke, Jr., Rush Moody, Jr., and William L. Springer.

Reliability of Electric and Gas Service, Docket No. R-405-A

ORDER ESTABLISHING HEARING TO SHOW CAUSE WHY UNCOMMITTED GAS RESERVE DATA SHOULD NOT BE PRODUCED IN NATIONWIDE INVESTIGATIONS

Issued October 15, 1973

Proceedings in the above-captioned docket are instituted in order to facilitate an expedited hearing requiring named producers to show cause why they should not be compelled to submit the completed questionnaire attached to the Commission's order issued August 1, 1973, in Docket No. R-405, entitled "Order Updating Nationwide Investigation". On November 4, 1970, in Docket No. R-405, the Commission issued a notice of investigation and proposed rulemaking with respect to developing emergency plans for natural gas sales. Information elicited from the natural gas industry was sought in order to enable the Commission to assess the adequacy and reliability of the gas supply and deliverability necessary to meet consumer demand for the 1970-1971 winter season and for four succeeding winter seasons.

At the time of issuance of the proposed rulemaking, evidence of anticipated curtailment of necessary gas services impelled the Commission to initiate continuing affirmative measures in order to obtain reliable, factual information on which to base its decisions. The public interest required the assembly of information as to the sources of available gas supplies and as to both existing and anticipated facilities to deliver such gas to meet consumer demands. Such information was sought in order to determine terms and conditions in a rule or rules to minimize, if not avoid, the consequences of any emergency gas shortages.

Pursuant to the proposed rulemaking and in implementation thereof, in a letter dated November 20, 1970, Commission investigatory officers directed 75 gas producers to respond on forms eliciting the information necessary for the Commission to consider. These 75 gas producers represented all large gas producers who individual jurisdictional sales of natural gas totaled in excess of 10 million Mcf annually. The form responses were designed to cover separately the two time frames set forth in the notice of rulemaking in Docket No. R-405.

In September 1972, it was evident that the industry was unable to meet consumer demand. By that date 27 natural gas pipeline companies, which are subject to Commission jurisdiction, filed pipeline curtailment plans pursuant to Order No. 431, 45 FPC 570 (1971). On September 12, 1972, the Commission issued an order updating the investigation begun in November 1970. Proposed amendments to the Commission's regulations promulgated in the initial notice in R-405 remain under consideration by the Commission.

The responses received pursuant to the letter of November 20, 1970, and pursuant to Commission order of September 1972 were particularly useful to the Commission in enabling it to assess problems which arose as a result of shortages in the gas supply and to take steps designed to meet them.

To enable the Commission to have a more comprehensive assessment of the gas supply problems prevailing in the industry, the Commission on August 1, 1973, issued an order entitled "Order Updating Nationwide Investigation". Data almost identical in form to that previously supplied was sought for evaluation and appropriate action. As part of a continuing investigation, the Commission sought an update for two time periods, as of December 31, 1972, and as of June 30, 1973. The Commission expressed its concern for accurate, comprehensive, detailed information in the August 1, 1973, order and it stated that the sources of information may be subject to audit by the Commission's staff.

Because of steps required to be taken by the Commission pursuant to Congressional subpoena *duces tecum* issued June 21, 1973, treatment of information submitted pursuant to this order cannot be accorded the confidentiality heretofore authorized and honored by the Commission. The Commission's orders issued November 4, 1970, and September 12, 1972, providing for the nationwide investigations of reserves of natural gas directed that the reserves data submitted pursuant thereto would be held in a confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 4 U.S.C. 552(b) (4) and (9).

The Chairman of the Senate Judiciary Committee's Subcommittee on Antitrust and Monopoly requested disclosure to the Subcommittee and the Federal Trade Commission of such data, and our efforts to comply with such requests as fully as possible without violating the conditions of confidentiality under which the reserves data had been obtained were unavailing. Instead, the Chairman of the Subcommittee, acting on behalf of the Subcommittee, issued a subpoena *duces tecum* directing the Commission's Chairman to appear before the Subcommittee on June 26, 1973, and to produce all data in the Commission's possession, custody or control or of any member or employee thereof referring or relating to the Commission's order dated September 12, 1972, including all workpapers and composites resulting from the material received in connection with that order.

In order to avoid placing the Commission's Chairman in jeopardy of contempt of Congress by refusing to disclose the data protected by our order of September 12, 1972, by order issued June 22, 1972, the Chairman was authorized to deliver under protest the data described in the *subpoena*. The Commission has no knowledge as to whether the Subcommittee intends to maintain the confidential status of the subpoenaed data, publicly to disclose such data, or to disclose such data to the Federal Trade Commission. Inasmuch as the protection heretofore provided for proprietary data can no longer be assured, we are unable to represent to the respondents that the data submitted will not be made public.

In its order of August 1, 1973, in Docket No. R-405, the Commission stated that it would not "require filing of the data herein sought until any producer who opposes the filing of data without an assurance of confidentiality has been afforded an opportunity for hearing on this issue."¹ In Ordering Paragraph 4 of that order the Commission provided that if voluntary response to the data request in the order of August 1, 1973, in Docket No. R-405 was insufficient for Commission assessment of gas supply and deliverability appropriate proceedings would be instituted to consider whether the reporting and disclosure of uncommitted reserve data by producers should be compelled.

The Commission has received 82 responses from the 85 companies² that were requested to respond to the questionnaire attached to the order of August 1, 1973, in Docket No. R-405. Three firms have failed to respond to the August 1, 1973, order and to a letter of inquiry dated September 5, 1973, as to the producer's intention to respond.³ Of 82 firms which responded, 13 firms declined to voluntarily provide the requested data.⁴ The information voluntarily provided by 69 respondents has been placed in the public files.

The Commission has reviewed the data submitted in questionnaire form pursuant to the August 1, 1973, order in Docket No. R-405 and has determined that there is not sufficient information to enable the Commission to adequately assess uncommitted domestic natural gas reserves. Accordingly, the Commission pursuant to Ordering Paragraph 4 of the order issued August 1, 1973, in Docket No. R-405, establishes an expedited hearing procedure.

At this hearing, producers not responding to the August 1, 1973, data request and producers declining voluntarily to submit the data request will show cause as to why, if there be any, the Commission should not compel named producers to submit the completed questionnaire attached to the Commission's order issued August 1, 1973, in Docket No. R-405, entitled "Order Updating Nationwide Investigation". This questionnaire is set forth once again in Appendix B of this order.

At this hearing the producers listed in Appendix A as respondents in this proceeding shall present evidence in support of their position. Members of the Staff of the Commission shall submit evidence relating to public interest requirements relating to disclosing or not disclosing the requested uncommitted reserve data.

Producers may submit the completed questionnaire to the Commission within 10 days of the issuance of this order in lieu of appearing at the hearing and presenting evidence.

¹ Reliability of Electric and Gas Service, Docket No. R-405, issued August 1, 1973.

² These 85 companies are the large gas producers whose individual jurisdictional sales of natural gas totaled in excess of 10 million Mcf annually.

³ These three firms are Clinton Oil Co., Helmerich & Payne, Inc., and North East Blanco Development Corp.

⁴ These firms are Amerada Hess Corp., Ashland Oil, Inc., Edwin L. Cox, Forest Oil Corp., King Resources Co., Lone Star Producing Co., Mobil Oil Corp., Northern Natural Gas Producing Co., Pennzoil Co., Pennzoil Producing Co., Tenneco Oil Co., TransOcean Oil Inc., and Imperial American Resources Fund, Inc.

The Commission orders:

(A) The parties listed in Appendix A hereto as respondents, producers who have not filed pursuant to the August 1, 1973, order in R-405, in this proceeding shall show cause why, if there be any, they should not be compelled to submit the completed questionnaire attached to the Commission order issued August 1, 1973, in Docket No. R-405, entitled "Order Updating Nationwide Investigation" and set forth in this order in Appendix B, wherein the parties are put on notice that such information will be made available to the public and shall be subject to audit of Commission Staff.

(B) In lieu of responding at a hearing to this show cause order, respondents listed in Appendix A attached hereto may file the completed questionnaire set forth in Appendix B. It shall be submitted in hand to Mr. Leon H. Friedlander at Room 7312L, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a sealed envelope marked "Response To Order Issued October 15, 1973" on or before 10 days from the date of issuance of this order. Any questions regarding said forms should be directed to Mr. Friedlander, who may be reached by telephone at 202-386-5735.

(C) For the purposes of this investigation, any responses submitted in compliance herewith shall be made available for inspection or copying by the public. Individual company information received as a result of this continued investigation will not be maintained in confidential status. The Commission cannot, in the light of Congressional demands as above set forth, assure confidential status for the data to be submitted pursuant to this order. See "Order Of Modification To Authorize Compliance With Congressional Subpoena Duces Tecum" issued June 22, 1973, in this docket. It should be noted that all responses shall be made at the Federal Power Commission offices in Washington, D.C.

(D) Parties who have previously responded to the Commission's order issued August 1, 1973, in Docket No. R-405, may present evidence in this proceeding on the issue of compulsory compliance with an order which may be issued herein. Any person desiring to be heard or to make any protest with reference to this proceeding should on or before October 26, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

(E) A public hearing is required wherein the respondent producers listed in Appendix A attached hereto shall show cause, if there be any, why they should not be compelled to submit the completed questionnaire attached hereto in Appendix B, shall be held commencing November 5, 1973, at 10:00 a.m. (EST) in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's Rules of Practice and Procedure.

(G) Producers listed in Appendix A attached hereto, the Commission Staff, and any other party offering evidence shall file their direct testimony and evidence on or before October 30, 1973, in accordance with the Commission's Rules of Practice and Procedure.

(H) All rebuttal testimony and evidence shall be tendered for receipt into the record at the hearing.

(I) The Presiding Administrative Law Judge's decision shall be rendered on or before November 16, 1973. All briefs on exceptions shall be due on or before November 23, 1973, and replies thereto shall be due on or before November 28, 1973.

(J) The Secretary shall cause prompt publication of this order to be made in the *Federal Register*.

By the Commission.

(SEAL)

MARY B. KIDD, *Acting Secretary.*

UNITED STATES OF AMERICA FEDERAL POWER COMMISSION

Before Commissioners: John N. Nassikas, Chairman; Albert B. Brooke, Jr., Rush Moody, Jr., and William L. Springer.

Amerada Hess Corporation, et al., Docket No. RI74-15

ORDER CONCLUDING SHOW CAUSE PROCEEDING AND AUTHORIZING EXAMINATION OF CERTAIN RECORDS BY AN OFFICIAL OF THE FEDERAL TRADE COMMISSION

Issued October 15, 1973

In May of 1973, the Commission released the *National Gas Reserves Study* (1973), which contains an independent and comprehensive analysis of the nation's proven natural gas reserves as of December 31, 1970. To a large extent, that study was made possible through the cooperation of natural gas companies who voluntarily furnished proprietary reserve information to the Commission's staff with the understanding that it would be afforded confidential treatment in accordance with Paragraph (B) of our order of December 21, 1971:¹

Any non-public commercial information concerning an individual natural gas company's reserves obtained during the course of this survey and analysis shall be treated as confidential without public disclosure by the staff of the Commission and its agents, including any accounting firm selected by the Commission to assist in this survey and analysis, unless otherwise directed by the Commission. The provisions of Section 8(b) of the Natural Gas Act [15 U.S.C. 717g(b)] and 5 U.S.C. 552(b) (4) and (9) [Freedom of Information Act] shall apply.

In order to assure that confidentiality would be maintained in fact, our order of December 21, 1971, as amended on March 9, 1972,² established detailed procedures for the compilation and analysis of individual company reserve data. In summary, these procedures required independent reserve teams, under the supervision of the Commission's staff, to visit various natural gas companies and examine data relating to certain fields which had been randomly selected by an independent accounting agent. The companies visited were requested to furnish the reserve teams with such information as (1) field area maps showing the location and completion of all wells drilled prior to December 31, 1970, (2) electrical well surveys, (3) core analyses, (4) reservoir production histories, (5) specific gravities of gas, (6) formation temperatures, (7) original reservoir pressures, (8) isopach maps, (9) records and backup data on reservoir pressure measurements, and (10) other pertinent data requested by the reserve teams. After analyzing such data, the independent reserve teams were required to transmit the estimations on a confidential basis to the reserve team supervisor who, in turn, was to furnish the accounting agent with a final reserve estimate for each field after comparing the reserve team data with A.G.A. reserve estimates³ or any other source. The worksheets which were prepared by the reserve teams were required to be returned to the Commission's offices in Washington and placed in the custody of the Technical Director of the National Gas Survey who was to have the responsibility of protecting their confidentiality.

Once all sampling had been made and all final estimates submitted, the independent accounting agent was to provide a report to the National Gas Survey on United States gas reserves as they existed as of December 31, 1970. When the report was accepted by the National Gas Survey, the accounting agent and the reserve team supervisor were to return all A.G.A. records to the member of the A.G.A. Committee of Natural Gas Reserves assigned to the area involved.

With the completion of the National Gas Reserves Study, in substantial compliance with procedures outlined above, it becomes the responsibility of this Commission to determine what disclosure, if any, should be made of the reserve data now being held on a confidential basis. Our task is particularly difficult in view of the interest in reserves data that has been expressed by certain committees and subcommittees of Congress which are independently investigating the energy crisis. Already, the Chairman of the Commission has been compelled by *subpoena duces tecum* to furnish the Senate Judiciary Committee's Subcommittee on Antitrust and Monopoly with uncommitted gas reserve data which was collected in Docket No. 405. Under compulsion of process, we authorized the Chairman to comply with the subcommittee's demands, but expressly noted that such practice was in derogation of the procedural and substantive due process rights of the persons whose proprietary data was involved.⁴

¹ Order Directing Study and Analysis of Natural Gas Reserves and Prescribing Procedures for the National Gas Survey (December 21, 1971).

² Order Amending Order Prescribing Procedures for the National Gas Survey (March 9, 1972).

³ Industry representatives who provide A.G.A. reserves submitted those reserves by fields on a confidential basis to the independent accounting agent.

⁴ Order of June 22, 1973, Docket No. 405.

In addition to the manifest interest of certain committees and subcommittees of Congress, the Federal Trade Commission has noted its interest in the reserves underlying the *National Gas Reserves Study*. In particular, on July 30, 1973, James T. Halverson, Director of the Federal Trade Commission's Bureau of Competition, filed an application with this Commission requesting that Theodore L. Lytle, Jr., an attorney for the Bureau of Competition, be given permission "to examine and copy the natural gas reserve estimates developed by the Federal Power Commission on fields in Offshore Louisiana."

In an effort to resolve these complex problems in a manner consistent with our responsibilities to both Congress and to the natural gas companies which have relied upon our assurances of confidentiality, we initiated the immediate proceeding on July 31, 1973, by ordering all natural gas companies involved, as well as any other interested party, to show cause why the gas reserves data in question should either be (1) retained on a confidential basis, (2) publicly disclosed, (3) disclosed to any committee or subcommittee of Congress without restriction, (4) disclosed to any committee or subcommittee of Congress subject to confidential treatment, (5) disclosed to other Federal agencies without restriction, or (6) disclosed to other Federal agencies subject to confidentiality. On August 1, 1973, we treated Mr. Halverson's application as a petition to intervene in this proceeding and invited his comments to be filed with others on or before August 15, 1973.

Upon review of the comments received from twenty-six natural gas companies and the Federal Trade Commission, we are convinced that no justification exists for modifying our order of December 21, 1971, as amended, which assures confidential treatment of the data submitted "unless otherwise directed by the Commission." Indeed, the majority of comments demonstrate that public disclosure of the data at this juncture would severely harm the public interest.

To begin with, it must be recognized that a natural gas company's reserve data, much like a patent or trade secret, constitutes a valuable and closely guarded asset. Making this asset available to competitors, without due compensation, would most certainly be inimical to competition, especially in highly competitive areas, as the comments of Ashland Oil, Inc. illustrate:

* * * Ashland Oil, Inc. has obtained leases in Federal offshore areas by payments to the United States Government of large bonuses. Unleased acreage adjoins and offsets certain of these leases. If significant reserves are discovered and if the reservoirs extend into unleased areas, Ashland would not disclose the results of such exploration until an opportunity is available to bid in a drainage sale of the offsetting acreage. The information developed on such leases is highly confidential and proprietary in nature and disclosure of such information prior to the drainage sale would destroy Ashland's competitive advantage in bidding at such sale by making available to other companies the results of Ashland's exploration efforts made at great expense of it.

We agree. Those who are willing to expend large sums toward the development of reserves data should not, through disclosure, be ironically placed in an inferior position to bargain against competitors who are willing to do little more than exploit the efforts of others.⁵

1966 U.S. Cong. and Ad. News, p. 2418 at 2428.

In addition to the competitive problems, the general disclosure of proprietary reserves data would have an inhibiting effect on future exploration of natural gas reserves since speculators could equally benefit with those producers willing to make geological and geophysical expenditures. Exploration and development for new gas reserves is already a highly risky enterprise. To add to the geological and financial uncertainty involved the additional risk that a successful explorer may be deprived of a valuable property right, would only exacerbate the critical gas supply shortage.

While we intend to maintain the data in question on a confidential basis to the fullest extent possible, we recognize, as do many of the producers whose data is involved, that our discretion is limited by the demands of certain authorized committees and subcommittees of Congress which may desire to examine such data in connection with pending legislative proposals. Accordingly, upon formal demand of an authorized committee or subcommittee of Congress, we will make available to such committee or subcommittee any data received in connection with the National Gas Reserves Study. Any such disclosure to a Congressional committee or

⁵ Significantly, the Freedom of Information Act, 15 U.S.C. § 552(b)(9), recognizes that agencies should not be required to make available to the public such information as "geological and geophysical information and data, including maps, concerning wells." Moreover, the legislative history of that Act reflects testimony to the effect that:

* * * [D]isclosure of the seismic reports and other exploratory findings of oil companies would give speculators an unfair advantage over the companies which spend millions of dollars in exploration.

subcommittee will not, however, be unrestricted on our part, but will be expressly subject to the requirements of confidentiality and protection against public disclosure as set forth in all related orders of this Commission.

We turn now from the merits of the show cause proceeding to the application of Mr. Halverson for authorization to permit Theodore L. Lytle, Jr., an attorney with the Federal Trade Commission's Bureau of Competition, "to examine and copy the natural gas reserve estimates developed by the Federal Power Commission on fields in Offshore Louisiana." As specifically identified by Mr. Lytle in his letter of June 5, 1973, to Mr. Edward Minor of our Office of General Counsel, these fields are:

Major Offshore Fields

Cameron, East Block 64-63-48-49.
 Cameron, West Block 180-173-174-179-181-144.
 Cameron, West Blocks 17-18-47-48.
 Coon Point & Ship Shoal Blocks 39-26.
 Delta, West Block 25-27-24-23-22.
 Eugene Island Block 266-246.
 Eugene Island Block 292-293.
 Grand Isle Block 43-68-71.
 Main Pass Blocks 40-41-42-37-57-43.
 Marsh Island, South—Mound Point—.
 Marsh Island, South Block 23-22-34-35.
 Marsh Island, Southwest—Mound Point—Rabbit Island.
 Ship Shoal Block 176-177-198-199.
 Ship Shoal Block 208-209-214-215-233.
 Ship Shoal Blocks 28-19-27.
 Timbalier, South Block 172-164-165-173-166-171
 Vermilion Block 14.
 Vermilion Block 39-38-42.
 Vermilion Block 66-76-57.

Smaller Offshore Fields

Cameron, East Block, 24-23.
 Eugene Island Blocks 231-214-230.
 Ship Shoal Block 222.
 Vermilion Block 16.

In his memorandum filed in support of the application, Mr. Halverson makes it clear that the FTC seeks only estimates, not the detailed records and worksheets on which the estimates are based, relating to 24 fields only.⁶

At the outset, it should be noted that not all of the estimates for the twenty-four fields in question were "developed by the Federal Power Commission", as assumed by Halverson's application. As Dr. Paul J. Root, Technical Director of the National Gas Survey, advised Mr. Lytle by letter of June 29, 1973, the Commission's staff participated in making the reserve estimates for only ten of the twenty-four fields involved.⁷ Reserve estimates for the other fourteen fields were made exclusively by the United States Geological Survey (USGS).

Nevertheless, we have concluded that permitting Mr. Lytle to examine and copy the estimates for all twenty-four fields would not be inconsistent with the public interest, provided that certain conditions of confidentiality are scrupulously observed.

⁶ Memorandum of the Director, Bureau of Competition, Federal Trade Commission, In Support of Petition for Access to Certain Records of the Federal Power Commission, filed on August 55, 1973, in this docket.

⁷ Independent reserve teams, composed of members of the Commission's staff and other professional personnel, made reserve estimates for the following major offshore fields:

Coon Point and Ship Shoal Blocks 39-26.

Marsh Island—Mound Point.

Rabbit Island.

Ship Shoal Blocks 28-19-27.

Independent reserve teams also made reserve estimates for the following smaller offshore fields:

Cameron, East Block 24-23.

Eugene Island Blocks 231-214-230.

Ship Shoal Block 222.

Vermilion Block 16.

Reserve estimates for Marsh Island, South-Mound Point were made jointly by the independent reserve teams and the USGS. Estimates for the state portion of Vermilion Block 14 were made by the independent reserve teams, while the federal portion of that field was estimated by the USGS.

First, Mr. Lytle, and any other employee of the FTC staff, shall be subject to all prohibitions against disclosure as set forth in our order of December 21, 1971, as amended by order of March 9, 1972, and all relevant provisions of the Natural Gas Act and the Freedom of Information Act. In particular, Mr. Lytle, and such other FTC employees, shall be bound, like any member of this Commission's staff, to comply with Section 8(b) of the Natural Gas Act, 15 U.S.C. § 717g, which prohibits divulgence of "any fact or information which may come to his knowledge during the course of examination of books, records, data, or accounts—except insofar as he may be directed by the Commission or by a court." More, over the Freedom of Information Act is applicable to the extent it limits disclosure of confidential financial or commercial information and geological and geophysical information concerning wells. 5 U.S.C. 557(h)(4) and (9).

Secondly, Mr. Lytle's examination of the estimates in question shall be conditioned upon strict adherence to the FTC's rules of practice and Section 10 of the Federal Trade Commission Act, to the full extent assured by Mr. Halverson's memorandum in support of the application:

The estimates requested from the Power Commission are for use in the Federal Trade Commission's nonpublic investigation of the American Gas Association *et al.* and will be accorded the confidential treatment provided for in the Commission's Rules of Practice, Section 4.10. Under Section 10 of the Federal Trade Commission Act, any officer or employee who makes these estimates public, without authority of the Commission or direction by a court, shall be deemed guilty of a misdemeanor. Additionally, the Commission has extended a separate commitment of confidentiality for these estimates (attachment 4).* This commitment does not prevent the Commission from providing the estimates upon request to any authorized congressional committee or subcommittee, or to a court pursuant to compulsory process. Nor does it encompass disclosures of conclusions based on the estimates. This commitment provides that the Commission will not disclose the estimates without first giving the Federal Power Commission ten days advance notice. Prior notice, but not necessarily ten days notice, is guaranteed if the estimates are requested by a congressional committee, subcommittee or a court.

* * * * *

On the other hand, the confidentiality that would be extended to these estimates by the Federal Trade Commission is in fact farther reaching than that given by the Federal Power Commission. Our commitment prohibits any type of disclosure, public or otherwise, without advance notice to the parties involved.

Finally, while we will permit examination of the estimates in question and copying by handwriting, we will not permit any reproduction and duplication of the documents in question.

We must emphasize that our willingness to make a limited disclosure to the Federal Trade Commission is based upon a sincere belief that the Federal Trade Commission will scrupulously abide by its assurance of confidentiality. Fulfillment of that commitment is absolutely imperative if we are to protect competition within the industry, encourage exploration and development for new reserves, and protect the proprietary rights of those whose reserves are involved.

The Commission finds:

(1) All natural gas reserves data received in connection with the National Gas Reserves Study should, unless otherwise ordered by this Commission, be maintained on a confidential basis, subject to the formal demands or process of Congress or any authorized committee or subcommittee thereof.

(2) Upon expiration of 10 days from the date of this order, the Technical Director of the National Gas Survey should be authorized to permit Theodore L. Lytle, Jr., an attorney for the FTC's Bureau of Competition, to examine and copy by hand the reserve estimates for the 24 fields heretofore listed, subject to the conditions imposed above.

The Commission orders:

(A) All natural gas reserves data received in connection with the National Gas Reserves Study will, unless otherwise ordered by this Commission, be maintained on a confidential basis, subject to the formal demands or process of Congress or any authorized committee or subcommittee thereof.

(B) Within 10 days from the date of this order, the Technical Director of the National Gas Survey is authorized to permit Theodore L. Lytle, Jr., an attorney for the FTC's Bureau of Competition, to examine and copy by hand the reserves

*Attachment 4, a letter from Charles A. Tobin, Secretary of the Federal Trade Commission, to Mary B. Kidd, Acting Secretary of the Federal Power Commission, is appended hereto.

estimates for the 24 fields heretofore listed, subject to the conditions imposed above.

By the Commission. Commissioner Moody, dissenting, filed a separate statement appended hereto.

[SEAL]

KENNETH F. PLUMB, *Secretary*.

Attachment 4

FEDERAL TRADE COMMISSION,
Washington, D.C., August 15, 1973.

MARY B. KIDD,
Acting Secretary,
Federal Power Commission,
Washington, D.C.

DEAR MS. KIDD: By Order of August 1, 1973, the Federal Power Commission treated an application filed by the Director of the Federal Trade Commission's Bureau of Competition for access to certain estimates to be a Petition to Intervene in Docket No. RI74-15 and granted intervention. The information sought by the application is the field by field estimates of proved reserves pertaining to each of 24 fields compiled for Offshore Louisiana as part of the Natural Gas Reserves Study (hereinafter referred to as "the estimates").

In the event of access, the above described estimates will constitute a part of the confidential records of the Commission and will be maintained pursuant to our Rules (see Sections 4.10 and 4.11) and statutes. In this connection, under Section 10 of the Federal Trade Commission Act, any officer or employee who makes public any such information, without authority of the Commission or direction by court, is guilty of a misdemeanor and subject to criminal sanctions.

However, in the event that an authorized congressional committee or subcommittee or a court pursuant to compulsory process, requests the estimates, nothing herein shall prevent the Commission from furnishing the estimates thereto, subject to the notice procedure set forth below. Furthermore, any commitment herein shall not apply to disclosures of conclusions based on such estimates.

In addition to the above, the following procedure will be afforded with respect to the estimates. Subject to the exceptions set out below, the Commission will not disclose the estimates to any person, other than a member of the Federal Trade Commission, its staff or an outside consultant brought in to work on the subject investigation, without first giving the Federal Power Commission notice ten (10) days in advance of such disclosure.

The Commission exempts from the above ten-day notice provision its furnishing the estimates to a committee or subcommittee of Congress, or to a court in response to a compulsory process. In the event the estimates submitted are furnished to a congressional committee or subcommittee, or to a court, prior notice is guaranteed. If ten-day notice is not possible, then such notice as is feasible will be given.

Copies of estimates will be maintained at the Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C.

The Commission will make use of the estimates only in connection with its current investigation, the scope of which is set forth in the Commission's Resolution dated June 3, 1971, in File 711 0042; and in connection with any action deemed appropriate by the Commission in this matter. The term of this Commitment shall be ten (10) years from the date of its acceptance.

By direction of the Commission.

CHARLES A. TOBIN, *Secretary*.

AMERADA HESS CORPORATION, ET AL. DOCKET NO. RI74-15

Issued October 15, 1973

MOODY, COMMISSIONER, DISSENTING

When this Commission undertook the first, and only, independent estimate of natural gas reserves ever conducted by any agency of the United States government, we exercised¹ the authority given by Congress in Section 8(b) of the Natural Gas Act² to impose conditions of confidentiality with respect to reserve data acquired by our staff and agents during the course of the National Gas Survey. We recognized also the applicability of the Freedom of Information Act.³

¹ Order Directing Study and Analysis of Natural Gas Reserves and Prescribing Procedures, December 21, 1971.

² 15 U.S.C. § 717(g).

³ 5 U.S.C. § 552.

These restraints on public disclosure appeared necessary, both to protect property rights, and to prevent unfair competition. As an initial matter, we recognized that gas producers expend enormous sums in the search for gas reservoirs. The expenditures to make such discoveries, with the accompanying information on gas reserves, are analogous to those made by other businesses in the nature of research and development work. This information developed and obtained by gas producers constitutes an important asset of the company, just as to its buildings and refineries. The courts have frequently held geological information to be a company asset entitled to protection against theft (see e.g., *Abbott v. U.S.*, 239 F. 2d 310, 314 (5th Cir. 1956).)

We knew also that large expenditures are made, and reserve information is accumulated, so that producers can evaluate mineral prospects for adjacent or nearby tracts not under lease and to calculate what sum should be bid for those tracts. Those companies which spend their money and acquire reserve data have a competitive edge over companies which do not. An additional edge is obtained by expert analysis and interpretation of the raw reserves data.

Our December 21, 1971, Order reflected our awareness of the fact that bidding for leases is extremely competitive. The reserve data which a producer acquires with its funds is one of the major tools in this competition. It is inimical to competition to allow a producer who has not expended any funds for exploration to acquire such data through public disclosure and then compete in lease bidding with those producers who have in good faith made such exploration expenditures.

The National Gas Survey was conducted under the terms of our December 21, 1971, Order, reaching completion in May, 1973. Thereafter, we received requests from the Director of the Bureau of Competition of the Federal Trade Commission and from the Senate Commerce Committee for release of part of the reserve information compiled during the course of the Survey.

We sought public comment, on a public record, concerning the disclosure of reserve information. Our record is complete. Substantial objections to public disclosure have been raised, and indeed I find *no* evidence that public disclosure will serve any aspect of the public interest.

A Congressional committee's request for information raises entirely different questions than does the request by the Federal Trade Commission. Since the majority's order grants the FTC request, I will address this issue first. I conclude that we are under no legal compulsion to grant the FTC request, and that, on consideration of this record, we should not do so.

The Federal Trade Commission Request

I cannot cast my vote to break the promise of confidentiality which we made on December 21, 1971. We have acquired certain information in trust. The harm which flows from a breach of trust can never be measured save, perhaps, in the abstract sense that distrust must follow. We deserve distrust when we demonstrate our lack of fidelity to the bond of our own word, freely given. Were we compelled, by judicial process, to release this information to the FTC, no problem would exist, for surely we cannot disobey the orders of a court of competent jurisdiction. We act today, however, without compulsion.

The Commission has the power to refuse to disclose information which is exempt from public disclosure under the Freedom of Information Act.⁴ The Act provides for public disclosure of certain information but exempts specified classes of privileged information. The Act⁵ provides in pertinent part as follows:

"(b) This section does not apply to matters that are—

* * * * *

(4) trade secrets and commercial or financial information obtained from a person as privileged or confidential;

* * * * *

(9) geological and geophysical information and data, including maps, concerning wells."

If we refuse disclosure, the party requesting the records is free to commence an action in the appropriate district court of the United States for an order to enjoin our withholding.⁶ The district court will then determine the matter *de novo*, with the burden upon the FPC to sustain its action.⁷

⁴ 5 U.S.C. § 552.

⁵ 5 U.S.C. § 552(b) (4) and (9).

⁶ 5 U.S.C. § 552(a)(3).

⁷ *Benson v. General Services Administration*, 289 F. Supp. 590, 593 (W.D.N.D. Wash. 1968)

We will be sustained in the district court upon a showing that the information falls within one or more of the exemptions under the Act.⁸

Reserves data herein involved fall into the fourth exemption which covers confidential trade secrets and commercial information. The fourth exemption " * * * is meant to protect information that a private individual wishes to keep confidential for his own purposes, but reveals to the government under the express or implied promise by the government that the information will be kept confidential."⁹ The exemption was created by Congress to encourage individuals to provide confidential information to the government.¹⁰

Congress recognized that an overriding public and private interest existed which required that this type of information should be privileged from public disclosure.¹¹ H.R. Rep. No. 1497, 89th Cong. 2d Sess. 10 (1966) states the following:

"This exemption would assure the confidentiality of information obtained by the Government through questionnaires . . . It exempts such material if it would not customarily be made public by the person from whom it was obtained by the Government. * * * It would also include information which is given to an agency in confidence, since a citizen must be able to confide in his Government. Moreover, where the Government has obligated itself in good faith not to disclose documents or information which it receives, it should be able to honor such obligations."

Reserves data are also covered by the ninth exemption under the Act which exempts "geological and geophysical information and data, including maps, concerning wells."¹² This information is property and is inherently valuable.¹³ The Congress has recognized the high value of this information and the compelling need for it to be kept confidential. Senate Rep. No. 248, 90th Cong., 1st Sess., 2 (1967) states the following:

"The purpose of clause (9) is to protect from disclosure certain information which is highly valuable to several important industries and which should be kept confidential when it is contained in Government records."

H.R. Rep. No. 1497, 89th Cong., 2d Sess., 11 (1966) states the following:

"Witnesses contended that disclosure of the seismic reports and other exploratory findings of oil companies would give speculators an unfair advantage over the companies which spent millions of dollars in exploration."

Once it is established that the information sought falls within one or more of the exemptions, the Courts have made it clear that the agency is authorized to withhold the information.¹⁴

With reasonable assurance that we are not compelled to honor the FTC request, the question then becomes: "Should we do so?" In my judgment we should not, for the harm and mischief that flow from an opposite conclusion are incalculable. There is, first and foremost, the problem of a broken promise.

I cannot reconcile myself to the notion that a government is free to do that which our society condemns in private conduct. High sounding phrases like "inter-agency cooperation", do little to assuage the sense of wrongness that I feel when we breach the confidentiality which we undertook to assure.

Secondly, the FTC has not undertaken any showing of why this confidential information is essential to the performance of the FTC's responsibility. They tell us that the information is requested "for use in" the FTC's non-public investigation of the *American Gas Association, et al.*, but I find no evidence submitted by the FTC that establishes, or even tends to establish, that FPC reserve estimates are relevant or material to the FTC investigation.

⁸ *Nichols v. United States*, 325 F. Supp. 130, 133 (D. Kan. 1971).

⁹ *Benson v. GSA*, 289 F. Supp. 590, 594 (W.D.N.D. Wash. 1968). See also *Bristol-Myers Co. v. FTC*, 424 F.2d 935, 928 (D.C. Cir. 1970).

¹⁰ *Soucie v. David*, 448 F.2d 1067, 1078 (D.C. Cir. 1971).

¹¹ See *Soucie v. David, supra*, where the Court stated: "Through the general disclosure requirement and specific exemptions, the Act thus strikes a balance among factors which would ordinarily be deemed relevant to the exercise of equitable discretion, i.e., the public interest in freedom of information and countervailing public and private interests in secrecy." (P. 1077).

¹² 5 U.S.C. § 552(b)(9).

¹³ See *Hunter v. Shell Oil Co.*, 198 F.2d 485 (5th Cir. 1952); *Pratt v. Shell Petroleum Co.*, 100 F.2d 833 (10th Cir. 1939).

¹⁴ In fact, courts have indicated a willingness to order an agency to accord confidential treatment to information that is clearly confidential and have held that failure of the agency to do so constituted an abuse of discretion. In *Graber Manufacturing Co. v. Dixon*, 223 F. Supp. 1020, 1023 (D.D.C. 1963), the Court held that failure of the Federal Trade Commission to grant permanent *in camera* status to confidential information was an abuse of discretion. The court in that case was construing the previous exemption under 5 U.S.C. § 1002(c) which provided that upon a showing of "good cause" matters of public record may be kept confidential. The "good cause" exemption was the predecessor to the fourth exemption under the Act. See also *Bank of America v. Douglas*, 105 F.2d 100, 104-05, 108 (D.C. Cir. 1939); *FCC v. Cohn*, 154 F. Supp. 899, 912-13 (S.D.N.Y. 1957); *FTC v. Bowman*, 145 F. Supp. 624, 630-31 (N.D. Ill. 1957); *Muller & Co. v. FTC*, 142 F.2d 511, 520 (6th Cir. 1944); *FTC v. Continental Can Co.*, 267 F. Supp. 713, 716 (S.D.N.Y. 1967).

Third, despite the majority's very laudable and worthwhile efforts to ensure continuing confidentiality of the reserve data, the majority recognizes that access to this data cannot be successfully restricted to a limited number of FTC personnel. Indeed it is clear that the FTC would not want this data if it cannot be "used", and use necessarily implies dissemination through the FTC. In short we may hope for continued confidentiality, we may seek continued confidentiality, but once the material passes from our hands, we cannot guarantee confidentiality.

It follows, I think, that the risk of disclosure to persons not entitled to the reserve data is immeasurably greater once we yield sole custody. And it is precisely this risk of disclosure which threatens harm to the public interest that is not outweighed, on this record, by any other discernable public benefits.

It is critical to note that the request of the FTC relates only to offshore, field-by-field reserve estimates. The record before us,¹⁵ and our own published studies, make clear that offshore reserves are currently the major source of new domestic gas supplies, and will contribute an increasing percentage of both total gas supply and new gas supply.

Offshore gas reserves generally lie within the federal domain, under the jurisdiction of the Department of the Interior. Before conducting any drilling operations in this area, producers must obtain federal leases. Acreage in the offshore area is leased competitively on the basis of sealed bids. By and large, it has been federal policy to submit for bids only blocks of a certain standard size (5,000 acres, offshore Louisiana; 5,760 acres, offshore Texas). These blocks are typically isolated from each other so that exploratory drilling on large segments of the federal domain comprising more than one or two of these leased blocks by one producer is not possible.

As a result of this federal policy, a producer cannot gain control of the entire area which he believes—*e.g.*, on the basis of seismic studies—may contain gas reserves. The exact location of a reservoir is speculative. A reservoir may approximate, in area, the size of a block. If the reservoir were centered on a single block, the producer could, by lease, insure that the benefits of his exploratory drilling of the reservoir would flow to himself only. However, a reservoir may overlap four or more adjacent blocks—blocks on which the producer cannot initially obtain a lease.

The producer who drills in an area not previously subjected to exploratory drilling is assuming substantial risks. Such drilling requires large investments without any assurance of a return. In an offshore area his costs for lease acquisition, exploration and development of a single block will likely include the following (for a typical block):

(1) Lease costs—In a recent (12-19-72) lease sale, offshore Louisiana bids ranged from \$27 per acre to \$21,630 per acre. The average bid was about \$3,100 per acre. In a recent (6-19-73) offshore Texas sale, bids ranged from \$36 per acre to \$13,490 per acre. Average bid was \$2,900 per acre. Taking the block size as 5,000 acres and the average bid as \$3,000 per acre (since bidding is competitive, successful bid would average higher), lease cost would be \$15 million per block.

(2) Drilling and testing of exploration wells (3 wells per block)—\$1,500,000.

(3) Platforms and development wells—\$25,000,000 (12 wells per block).¹⁶

In return for undertaking this investment and assuming this risk, the producer expects to develop the reservoir which his exploratory drilling reveals. However, the greater part of the reservoir may prove to underlie adjacent blocks and not the block on which the producer has a lease. The data obtained from drilling exploratory wells on the leased block, however, will probably enable the producer to determine the general size and configuration of the portion of the reservoir underlying adjacent blocks. The producer will now be in a position to bid more knowledgeably on adjacent tracts when they are submitted for bids.

However, if data regarding the reservoir underlying particular blocks were made public knowledge, other producers would be in a position to benefit from the initial producer's investment in drilling and testing. Without any expenditure on their part, other producers would be in a position equivalent to that of the initial producer to evaluate the proper bid on adjacent blocks containing the balance of the reservoir. It is not unlikely that the largest part of a reservoir will underlie one or more adjacent rather than the leased blocks. In this event, other producers may be able to enjoy nearly all the fruits of the initial producer's exploratory drilling, logging, testing and evaluation work. Release of reserve estimates may result in the initial producer losing an appreciable portion of the bene-

¹⁵ The response of Natural Gas Pipeline Co., a company with limited offshore production, sets forth quite clearly the nature of the problem with which we deal offshore, and I have drawn heavily on that response for the ensuing description of the offshore leasing situation.

¹⁶ These estimates are contained in Natural Gas Pipeline's response.

fits he thought to gain by his risk and investment in exploration work on the reservoir. The risks of this type of exploratory drilling venture are great; the rewards must be commensurate if the producers are to continue such efforts. Release of confidential information may tend to reduce, or eliminate, that prospect.

It may well be that the bulk of the data acquired by the Commission in connection with the National Gas Survey may be no longer so competitively sensitive as to require confidential treatment. This record does not establish this to be true, however, and I cannot presume that it is true in the absence of evidence.

The Federal Power Commission is not in a position, on the basis of this record, to determine which of the data in its possession is competitively sensitive and which, if any, is not. Until we know, with reasonable certainty that we do no damage by altering our procedures, we should comply with the procedures established to assure confidentiality of such data. Only if all proprietors of such data fail to establish that such protection is necessary should we open our files.

We must be mindful that with regard to the Federal domain offshore, two factors greatly increase the likelihood of serious economic injury. First, there are vast areas of this acreage which have not yet been offered for lease by the Federal government and are thus "open". Second, the expenses incurred in these offshore areas are many times greater than similar expenses incurred onshore. Release of field estimates prior to the time lease ownership of the entire field area is established cannot be justified, unless the companies involved waive their rights.

It is impossible to read and give serious thought to the record in this proceeding without becoming convinced that there is a preponderant likelihood that disclosure of reserve data will give rise to unfair competition, will stifle exploratory expenditures and efforts offshore, and, ultimately, will impede gas development activities. I can find no evidence of any offsetting public benefit which disclosure will bring. I conclude, therefore, that on the basis of this record the majority's action is arbitrary and capricious, and without the support of substantial evidence. The FTC request should be denied.

Congressional Requests for Confidential Information

The Freedom of Information Act does not apply to Congress. This agency is an arm of Congress, obligated to render such information and assistance as it can legally give. I conclude, therefore that a Congressional demand for confidential information raises different questions and requires different consideration than demands received from others.

As a result of our recent experience with a Congressional subpoena,¹⁷ I am convinced that, as a practical matter, this Commission has no recourse other than to honor a Congressional demand, even though the demand has the effect of denying substantive and procedural due process to citizens of the United States,¹⁸ and even though the demand is of questionable legality,¹⁹ and even though the demand seriously impairs our ability to regulate.²⁰

It is probable that the only means available to the Commission to challenge a Congressional subpoena is by noncompliance, with post-contempt review through *habeas corpus* proceedings. I was not willing to force this result on our Chairman in June when the issue arose, nor am I willing to do so now.

I concede, therefore, that Congress, and its duly authorized committees, have the naked power to secure and disclose any information we have, no matter how harmful to the public such disclosure might be. I concede further that a Congressional committee may render nugatory the supposed Constitutional guarantees of due process, by taking valuable information without the owner thereof having notice and an opportunity for hearing, and without the payment of just compensation. I concede further that a Congressional Committee can, with impunity,

¹⁷ See Order of Modification to Authorize Compliance with Congressional Subpoena Duces Tecum June 22, 1973, in Docket No. R-405.

¹⁸ My concurring statement to the Order cited above attempted to delineate the effect of a Congressional subpoena on the rights of affected parties. I incorporate that concurrence into this dissent.

¹⁹ In a situation such as presented here, data collection was carried out under assurances of confidentiality. The Order so providing was not appealed and became final thirty days after issuance. In prescribing procedures for the Gas Survey, the Commission acted under Congressional mandate. A Congressional demand at this date, made with the expressed purpose of public disclosure as was the demand of Senator Stevenson on behalf of the Senate Commerce Committee on October 11, 1973, has the effect of collaterally attacking a prior Commission order, and results in a situation where one committee can override the will of the whole Congress that the Commission is empowered to grant, or withhold, confidential treatment as the public interest dictates.

²⁰ Also, a "formal demand" may not be legally sufficient. See *Watkins v. U.S.*, 354 U.S. 178 (1957); *Gorack v. U.S.*, 384 U.S. 702 (1966). And see *Accardi v. Shaughnessy*, 347 U.S. 660 (1954); *Service v. Dulles*, 354 U.S. 363 (1957).

²⁰ Cf. *Electric Bond & Share Co. v. S.E.C.*, 303 U.S. 419 (1938); *Rosario v. U.S.*, 353 U.S. 53 (1957).

hurt competition in the gas industry and inhibit offshore development by demanding, and disclosing, reserve data.

At this stage, we can only hope, and trust, that Congress will use its awesome power with wisdom and restraint.

"O, it is excellent

To have a giant's strength, but it is tyrannous
To use it like a giant."

RUSH MOODY, Jr., *Commissioner.*

BEFORE THE FEDERAL POWER COMMISSION

Deposition of Edward A. Albares, Room 9103, Federal Power Commission, Washington, D.C., Friday, June 22, 1973

The above-entitled matter convened, at 3:05 p.m.

Before: Leo Forquer, General Counsel, Federal Power Commission Webster P. Maxson Executive Director, Federal Power Commission.

PROCEEDINGS

Edward A. Albares, being duly sworn by Regina M. Spradling, a notary public in and for the District of Columbia, testified as follows:

EXAMINATION

By Mr. FORQUER:

Q. Please state your name.

A. Edward Albares.

Q. Your address?

A. 8117 Gale Street in Annandale.

Q. What is your official position with the Federal Power Commission?

A. I am section head of the production and supply section.

Q. Bureau of Natural Gas?

A. Yes.

Q. Mr. Albares, the subject of our questioning here today is the alleged attempt to destroy certain documents submitted to the Commission pursuant to their order of September 12, 1972 in Docket R-405 and our inquiries are directed to what, if anything, you know about events leading up to the attempted destruction occurring thereafter. Will you please state in your own words any information that you may have with respect to this matter?

A. The actual destruction itself?

Q. Anything leading up to the destruction, any knowledge you had of proposed destruction or anything you know of your own knowledge occurring subsequent to that.

Mr. MAXSON: Off the record.

[Discussion off the record.]

Mr. MAXSON: On the record.

The WITNESS: In zeroing in on the destruction itself, of course, I should say that I was aware that there has been some discussion of this matter. For the records sake, I did not authorize it or approve it one way or the other because at the time Mr. Mangen was working on a special project for the Bureau Chief's office. There had been discussion of it however.

By Mr. FORQUER:

Q. Tell us what the discussion was and with whom?

A. The discussion was, if I may back up, the instructions, I guess, with regard to this matter were never clearly defined in that when this matter was formulated as far as the Bureau is concerned, the general instruction—I was not in the initial meeting. But at some of the subsequent meetings that I was in—I was not in all of them I might add—but the general instruction was to treat this subject or particular survey exactly like it had been treated in the past in previous surveys. What I am leading up to here or trying to say is that from what we had done in AR 69-1, not the papers themselves, not the records, but the work papers were destroyed, were burned. Now this is in AR 69-1, the Southern Louisiana area rate proceeding. I have no proof, but in talking with John Williams who conducted the first uncommitted reserve survey, he indicated the papers he utilized had been destroyed. I did not witness this and I did not know it as a matter of fact other than in conversation.

Q. All of these conversations you are now talking about were Bureau conversations with respect to the manner of carrying out the Commission's order of September 12, 1972?

A. R-405, correct.

Q. Who was involved in these discussions?

A. Of course the discussion with John Williams involved John Williams himself.

Q. Excuse me, John Williams was not involved in the September 12, 1972 one, was he?

A. No, he had long since been gone and is no longer with the Commission. But in trying to understand the problem, there was conversations with John, as I indicated earlier, in which he related to me or inferred to me that the work papers he had utilized had been destroyed. I do not know how. I did not witness it, and I do not know anymore about that. In discussions several times thereafter in the presence of the Bureau chief—

Q. Who?

A. Wait a minute. I think it was Mr. Tom Joyce, myself, and Mr. Mangen. I am not sure whether Mr. Curry, our then Division Chief, was involved in this. The dates are a little fuzzy. But in general discussion, not in specific discussion, the matter came up about we are to do this exactly like it has been done before and follow the same pattern. This is the procedure we followed or tried to follow in our 405 of September 13, 1972, or whatever the date is.

Q. Do you know of your own knowledge what procedure was used in the earlier survey where John Williams was the investigating officer?

A. Particularly what part of the proceedings?

Q. Were there, in fact, any submissions made by independent producers in writing to the investigating officers which remained in their custody?

A. That I do not know.

Q. So far as you know, the only thing they may have had were the work papers on which they made these composites?

A. Right.

Q. Go ahead with anything else you can add.

A. I think that covers most of the aspects preceding it. Recently since this has occurred—of course when it first occurred, here again I was out of town on a business matter for the Bureau. So I was not present. And then when I came back, of course, all of this has been developed since then. I have not discussed it with anybody and so I know none of the particulars.

Q. Do I understand what you are saying is that you have had several discussions at or about the time this September 12, 1972 investigation was launched about the manner of carrying it out and subsequent to that time you had nothing to do with that, is that correct?

A. That is correct. Now, Mr. Mangen mentioned something to me about his concept of how this should be carried out, I mean of destroying the records.

Q. But that was early, at or about the time he was beginning to receive the reports from the producers, is that correct?

A. I think it was after receiving them. The exact date I do not recall.

Q. Insofar as the attempted destruction of the composite or the reports, was that discussed with you immediately prior or immediately after that time?

A. I am sorry, I missed that very first part.

Q. According to Mr. Mangen, sometime in the month of April 1973 he made arrangements for the destruction of the documents. On or about that time. Immediately prior thereto or immediately afterwards, did you have any discussions with respect to this matter?

A. As I recall he mentioned it to me. I do not remember the exact date. It was somewhere, I would suspect, after the 13th or it might have been immediately before. In the earlier AR69-1 the work papers only that we utilized, since there were only a few sheets, they were burned in a wastebasket in my presence. So I can certify that they were destroyed according to the order at that particular time or the examiner's interpretation, or our interpretation of the examiner's orders. When this was brought up again I suggested that since we had a security officer that this matter should be discussed with him and that he should also discuss it with the Bureau Chief since he was working for the Bureau Chief directly in this matter as a special project to handle this particular case.

By Mr. MAXSON:

Q. Did Joyce at any time direct destruction of the documents?

By Mr. FORQUER:

Q. Did Mr. Joyce, the Chief of the Bureau of Natural Gas, at anytime to your knowledge direct the destruction of these documents?

A. Not to my knowledge.

The other thing I might add to clear up the record, when I said it was, "discussed," since it had never occurred before, it was never made a specific issue in any of our discussions with other people. Everytime it came up for discussion we always said, do you want to stick to the old pattern that we followed in the past, and in a general sense like this. I am not trying to say that he, in answer to a specific question, said do it exactly this way.

Q. You mean that the term destruction may not have been used, but to do it in the same way to you meant destruction and to somebody else it might have meant something else, is that what you mean?

A. Exactly. And following the same pattern, if it were destroyed in the past, it would indicate to us that it should be destroyed. But here again he did not specifically say you do this—burn the records or destroy the records.

Mr. FORQUER. I think that is all. Thank you, Mr. Albares.

[Whereupon, at 3:15 p.m., the deposition was concluded.]

REGINA M. SPRADLING.

BEFORE THE FEDERAL POWER COMMISSION

Deposition of: Melvin Kofkin, Room 9106, Federal Power Commission, Washington, D.C., Thursday, June 14, 1973

The above-entitled matter convened at 2:45 o'clock p.m.

Before: Leo Forquer, General Counsel, Federal Power Commission, Webster P. Maxson, Executive Director, Federal Power Commission.

PROCEEDINGS

Melvin Kofkin, being duly sworn by Alice Rothwell, a notary public in and for the District of Columbia, testified as follows:

EXAMINATION

By Mr. FORQUER:

Q. Please state your name and address.

A. Melvin Kofkin, 9601 Sutherland Road, Silver Spring, Maryland.

Q. You are an employee of the Federal Power Commission?

A. Yes, sir, I am.

Q. What is your position, or title?

A. Economist.

Q. And who is your immediate supervisor?

A. Dr. John Wilson.

Q. Mr. Kofkin, I want to ask you a few questions with respect to the alleged destruction, or attempted destruction, of certain data with respect to uncommitted gas producer reserves received by the Commission pursuant to their Order issued September 12, 1972.

Are you acquainted with that Order?

A. Not in detail, sir.

Q. But you do know that they requested information with respect to these uncommitted reserves from producers having annual production in excess of 10 million Mcf per year, is that correct?

A. Yes, sir.

Q. Let me ask you first, what work have you done and approximately at what time did you start work which related to this reserve data?

A. On February 27th of this year I received a memorandum from Dr. Wilson requesting me to contact BNG and see if I could get the data which supported the Public Report. That's Report No. 19103, Docket R-405, February 22nd of this year, entitled "Reliability of Gas Service."

Q. Did you contact the Bureau of Natural Gas?

A. Yes, I did. I contacted a number of people.

Q. Who were some of the people? Whom did you contact?

A. I contacted a Mr. Vic Zabel, on Extension 3991. He is the gentleman who I believe collected the data, and that was on February 27th.

Q. If I may stop you there?

According to the Commission's Order of September 12, 1972, the responses to these questionnaires were to be delivered to Mr. Lawrence R. Mangen.

Are you aware of that fact?

A. In general, yes, sir.

Q. All right. But you contacted Mr. Zabel?

A. Mr. Zabel, yes, sir.

Q. And what happened, or what did you request of him?

A. I requested that the backup data that would allow me to make a determination of the percentage of concentration for the top four and top eight firms.

Mr. Zabel informed me that the data was confidential by the terms of the original Order and had been destroyed.

At that point I met with Dr. Wilson and informed him of my conversation. He then told me he would take it forth and inform me.

Q. Did you have any further contact with this problem?

A. Yes, sir, I did. On February 27th—

Q. On February 27th you got the memo from Dr. Wilson?

A. Yes, the original memo from Dr. Wilson.

About March 29th I received an assignment from Dr. Wilson asking me to pick up where I had left off.

Q. Excuse me. Was this before or after you were advised that these documents had been destroyed?

A. I was advised that they had been destroyed on February 27th.

Q. On February 27th you were advised they had been destroyed?

A. Right.

Q. And Mr. Zabel so advised you?

A. So advised me, correct, as far as my information here.

Q. Very well, Go ahead.

A. Dr. Wilson, with the assignment, gave me two brief memoranda, one from Chief, Bureau of National Gas to Chief, Office of Economics, indicating that the information is being forwarded, or had been forwarded, or would be forwarded to—I'm sorry—Lawrence Mangen, and the tabulation was supposed to be attached to the memoranda.

Q. You're saying that on February 27th Mr. Zabel advised you that the documents had been destroyed, but on March 29th Dr. Wilson advised you that the data you had requested would be furnished to you?

A. Yes, sir.

Q. And was that information available only from these documents which allegedly had been destroyed?

A. I don't know, sir. I did not inquire at any point between those two dates as to what had happened.

Q. The memorandum you have just handed me, dated March 21, 1973, is from Thomas J. Joyce, the Chief of the Bureau of Natural Gas, to the Chief of the Office of Economics, and states that:

"As requested by you, I directed the investigating officer, Mr. Lawrence R. Mangen, to composite information on uncommitted gas reserves of the four largest and eight largest producers by the reported areas. This tabulation is attached.

"It is my belief that this composite report does not violate the strictures of the Order under which the data was obtained.

"However, because of the provisions of the Order and the confidentiality of the material, the composite report should have remained administratively confidential."

Is that correct?

A. That is correct, sir.

Q. That memorandum was dated March 21. Now you say that eight days later you received an assignment from Dr. Wilson. And what was the nature of that assignment?

A. To proceed and compute the concentration ratios that he had assigned me on February 27th.

Q. At that time did you raise any question as to the ability to furnish the data, in view of the fact that you had been advised that the documents had been destroyed?

A. No, sir, I did not.

Q. What did you next do?

A. I next proceeded to work out the concentration ratios, using this administrative and confidential listing of the four largest and eight largest producers.

Q. Which is a tabulation which was attached to Mr. Joyce's memorandum of March 21, is that correct?

A. That is correct.

Q. All right.

A. In my work with that, I detected a number of obvious errors because of quantities which just did not add up. The sum of the component parts was larger than the total.

This was a Monday, April 2nd. I called Mr. Mangen and spoke with him about it.

Q. Excuse me. Why did you call Mr. Mangen?

A. Mr. Mangen was basically my point of contact in this particular assignment. I was led to believe he would be the one who could furnish me with any kind of information.

Q. You said that on February 27 you talked to various people, but wound up, as I understand it, with Mr. Zabel?

A. That's right, sir.

Q. How did you get to Mr. Mangen? Was it, if I may ask, because Mr. Mangen's name was shown as the one who had prepared the memorandum of March 21 for Mr. Joyce to the Chief of the Office of Economics.

A. I believe it was, sir.

Q. All right.

You went to Mr. Mangen on April the 2nd, or talked with him?

A. No. Spoke with him on April 2nd.

Q. Okay. What was the nature of the conversation?

A. I told him my problem and he suggested that he would call me in the morning.

Q. Let me interpose here.

From the time on February 27th, when you were advised by Mr. Zabel that the documents had been destroyed, to the date of April 2nd did anybody ever indicate to you that they had not been destroyed, or anything with respect to the status of those documents?

A. No, sir. I had, in essence, assumed that the job, that that particular assignment, was in a state of limbo until I heard further from Dr. Wilson, and I did nothing about it.

Q. And did Dr. Wilson indicate to you how he was able to get this material, in view of the destruction of the documents?

A. No, sir, he did not.

Q. All right. Go ahead with your April 2 date.

A. On April 2nd, as I mentioned, I spoke with Mr. Mangen about the inaccuracy. On Tuesday, April 3rd, about 8:45 Mr. Mangen called me and said the data would be corrected, and apparently it was a simple error. I suggested coming over to G Street. At that particular time the Office of Economics was at 4th & 25 K Street, and the Bureau of Natural Gas was in the GAL building.

I went over and I picked the material up from an assistant of Mr. Mangen, whose name I unfortunately do not have, about 3:30 in the afternoon. At that time it was indicated to me that the cause of the error, it was picking up some quantities in cubic feet as if they were Mcf.

Q. You say you picked up material from Mangen's assistant. What was the nature of that material?

A. There were about fourteen numbers in error, and his assistant verbally gave me the correct numbers. For instance, in 1971, the four largest of the Southwest should have been 420,900 and so on.

Q. Instead of what?

A. Instead of 471,698.

Q. All right. Go ahead with your story. What did you do after you got this corrected material?

A. After I got the corrected material I proceeded to attempt to complete the concentration ratios in the four and eight largest companies, and I found in that again I had inconsistencies, which I eventually traced to Tables I and III of this public document No. 19103, Docket No. R-405. I was using this public information as the denominator and the four and eight largest producers as the numerator, and again I got answers which were not plausible and which caused me to check into it.

At that point I went to Mr. Mangen. I don't know the exact day. I presume it was on either April 5th or April 4th. I visited him in his office and I mentioned to him that I had found some errors, or inconsistencies, in the public document, which I believed were probably errors in addition, but I could not check them because I had no source document to check against.

Mr. Mangen at that time told me that he didn't either. He said that the material, the source material that is, had been turned over, as he called it, to the "Security

people," at some earlier time, I would guess probably like, or the feeling was with me the trend of the conversation was a week or so before that, but at some earlier time.

Q. Either a day or two before that, when you received this corrected data from Mr. Mangen's assistant, there was no indication to you that the original source documents were not available?

A. There was no indication whatsoever. I did not actually have the original source documents.

Q. I understand.

A. I only got my material verbally, and that was being read off from a corrected copy of the four and eight largest producers administrative and confidential sheet, some work sheet of some sort.

Q. Are you talking about the April 3rd visit when Mr. Mangen's assistant gave you the corrected figures?

A. That's right.

Q. He gave them to you orally and you copied them down?

A. And I copied them down, that's right.

Q. And there was no indication that the source material was not available?

A. No, none whatever.

Q. But a day or two later you were advised by Mr. Mangen that he didn't have it, that he had turned it over to the Security Officers?

A. Yes.

Q. Presumably for destruction, or did he indicate?

A. He indicated for destruction. He said it either was or was being destroyed.

Q. I see. What further happened?

A. Well, at that point I proceeded to complete the memorandum that I started for Dr. Wilson.

Q. As to concentration ratios?

A. As to concentration ratios, indicating to him that there were a number of errors and that some caution would have to be exercised in the use of the ratios.

Q. Is that the memorandum dated April 6, 1973, from you to Chief, Division of Economic Studies?

A. That's right, sir.

Q. And in that memorandum dated April 6th you indicated that: "Mr. Mangen has indicated that all records were destroyed last week and it is impossible to verify the source of error."

Is that correct?

A. That's right.

I notice, in looking at the memorandum, I spoke with a Mr. Pavetto, who is the one who furnished me with the corrected data.

Q. Pavetto furnished you with the corrected data on April 3rd?

A. That is correct, sir.

Q. After you furnished the concentration ratios as best you could construct them with these data, was there anything further that you were involved in with respect to this matter?

A. No, sir. I gave my information and a copy of the memorandum to Dr. Wilson, and Dr. Wilson left for, I believe, two weeks, and I heard nothing further about this particular assignment.

Oh, excuse me, sir, yes. Dr. Schwartz asked me to prepare a compilation in different form of the basic data that I had given to Dr. Wilson.

Q. When did he ask you for this, do you know?

A. I would have to guess it was before April 12th because I do have a typed copy of the data gathered, so I presume it was sometime between the 9th and 12th.

Q. What was the nature of the study that Dr. Schwartz requested of you?

A. Merely to reorganize the particular data in different form.

Q. Was this study in the nature of concentration ratios still?

A. Yes, sir.

Q. And you still used the same data that you had used for Dr. Wilson?

A. Yes, sir.

Q. What was the difference in the two studies?

A. Merely in presentation.

Q. You mean it was still the top four and the top eight?

A. Yes, sir. The one I prepared for Dr. Schwartz was just more condensed.

Q. The results would be the same?

A. Identical, sir.

Q. What, if you know, was done with that study?

A. I don't even believe he ever got it. I have all of the copies here.

Q. You prepared it but didn't give it to him?

A. But did not give it to him.

Q. How about the study you gave Dr. Wilson?

A. Dr. Wilson took that study the evening I gave it to him, the evening of the 6th, Friday evening.

Q. You gave it to him on the 6th?

A. On the 6th, and he mentioned to me that he would probably take it out of town with him to study.

Q. And you didn't hear any more from him with respect to it from that time to this?

A. No, I did not.

Q. Have you had any further dealings or contacts with respect to the issue of these uncommitted reserves, or any studies with respect thereto?

A. The only contact I had has been in the last few days. Dr. Wilson had mentioned to me a few days ago that the corrected data on the four and eight largest producers would be furnished by Mr. Mangen. This was on Friday, June 8th.

Q. What was this again? On June 8th he advised you what?

A. On June 8th he advised me that Mr. Mangen would provide corrected material.

Q. Anything else?

A. Nothing else until yesterday morning.

Q. That would be June 13th?

A. Right. I found a note on my desk asking me to call Mr. Mangen, which I did. He was busy, but his secretary took the message, I believe. About ten o'clock he came up to see me and told me he would like a copy of the work sheet that he had given me originally. I provided him with a copy, I believe, at the time I was involved with him earlier, that period of the 2nd, 3rd and so on, but the copy unfortunately was a copy of a copy and not very good, so he asked me to see if I could get the original for him and to make a copy of it so he could work with it.

And that is the last I dealt with Mr. Mangen on that matter.

Q. The work sheet you're talking about, is that the attachment to Mr. Joyee's memorandum of March 21, 1973? Is that what you call the work sheet?

A. Right. This is a copy of it, sir.

Q. And from that you made the concentration ratios that you spoke to us about?

A. Right, sir. As you see, I've made some corrections on there.

Q. Now let me go back, if I may, to June 8th when Dr. Wilson advised you that Mr. Mangen would provide corrected material.

Did he indicate what the nature of that was, or why, or how Mr. Mangen had obtained this?

A. No, he did not. In the context of the conversation, and obviously on this concentration ratio, I was just waiting to receive the material so I could check and rework my ratios.

Q. As of this date have you received that material from Mr. Mangen?

A. No, sir, I have not.

Q. Is there any other information or any other contact you had with this problem that you think should be indicated on the record?

A. I can't think of anything else, sir. If anything else should occur I, of course, will inform you.

Mr. FORQUER: Off the record.

[Discussion off the record.]

Mr. FORQUER: Back on the record.

The memorandum of February 27 to Mr. Kofkin to Dr. Wilson is attached and made a part of the record.

[The memorandum referred to above is as follows:]

Mel Kofkin: Please see if we can determine from the BNG data (which supports this report) which producers (and which areas) account for the 3.4 trillion cubic feet of available reserves available as of mid-1972. Please talk to me after reading this report and before talking to BNG.

J. W.

Mr. FORQUER: You have handed to me the original of a note signed "H.P.W." which apparently is Haskell P. Wald, Chief of the Office of Economics, to Mr. Wilson, dated March 22, which states as follows:

"At last we have an answer to our request on uncommitted reserves. I will be interested in the percentages."

By Mr. FORQUER:

Q. Is that right?

A. That's right, sir.

Q. Did Dr. Wilson give you this?

A. Yes, he did.

Q. Was this a part of your assignment from Dr. Wilson on March 29?

A. That's right, sir. That was given to me along with the memorandum from the Bureau of Natural Gas.

Q. From Mr. Joyce, dated March 21st?

A. Yes, right, sir.

Mr. FORQUER: We will also attach as a part of this record the note just referred to from Mr. Wald to Dr. Wilson.

[The Document referred to is as follows:]

FEDERAL POWER COMMISSION,
Washington, D.C., 20426, March 22.

To Mr. WILSON.

At last we have an answer to our request re uncommitted reserves. I will be interested in the percentages.

HPW

HASKELL P. WALD,
Chief, Office of Economics.

By Mr. FORQUER:

Q. Mr. Kofkin, as I understand it, on April 6, 1973, you made a memorandum of your study of these reserves and the concentration ratios which you had developed with respect thereto, is that right?

A. That's right, sir.

Mr. FORQUER: We will attach this and make a copy for the record the memorandum of April 6, 1973.

[The document referred to is as follows:]

CONGNTRATION RATIOS—LARGE PRODUCERS PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE

The attached work sheet contains the concentration ratios (four and eight largest producers) for large producers proved natural gas reserves available for sale. The numerators of the ratios are based on administratively confidential material received from Mr. Mangen of BNG; the denominators of the ratios are taken from pages 8-10 of *FPC News Release No. 19013*, (Docket No. R-405: Reliability of Gas Service).

There appear to be a number of errors in Tables I and III of the News Release. Two which had an effect on the results were in Table I, Total Large Producers Proved Natural Gas Reserves Available for Sale (p. 8). Large Producers Reserves Available for Sale—South Louisiana Federal Offshore as of December 31, 1971 should be 607,794. Large Producers Reserves Available for Sale—Unclassified Areas—All Others as of June 30, 1972 should be 81,626. The assumption has been made that these errors are due to incorrect addition to obtain the total rather than in the constituent parts. Figures for Appalachian Area gas available for sales as of June 30, 1972 appear in error and the ratios obtained should not be used. There are some inconsistent data in Table III, Total Large Producer Associated Dissolved Natural Gas Reserves Available for Sale, which had only marginal effects on the ratios (A change from .994 to .998 was the most significant), but there is a possibility of some error in South Louisiana figures where Large Producer Reserves Available for Sale as of December 31, 1971 total to 315,413 as opposed to 279,776 shown.

Mr. Mangen has indicated that all records were destroyed last week and it is impossible to verify the source of error. Errors in the worksheet which provided the volume of the four largest and eight largest producers have been corrected per data furnished by Mr. Pavetto, Bureau of Natural Gas. In view of the number of possible errors and the lack of source material to resolve the inconsistencies it is suggested that great care be exercised in use of the calculated ratios.

MELVIN KOKIN,
Chief, Division of Economic Studies.

By Mr. FORQUER:

Q. I understand that you also made for Dr. Schwartz a further study on concentration ratios which was never delivered to him?

A. That's right.

Q. And therefore never studied by him?

A. That is right, sir.

Q. Could we have a copy of that to also make a part of the record in this case?

A. There you are, sir.

Mr. FORQUER: That also will be made a part of the record.

[The referred to document is as follows:]

CONCENTRATION RATIOS—LARGEST PRODUCERS—PROVEN NATURAL GAS RESERVES AVAILABLE FOR SALE
 [In percent]

	4 largest producers		8 largest producers	
	As of Dec. 31, 1971	As of June 30, 1972	As of Dec. 31, 1972	As of June 30, 1972
South Louisiana:				
Onshore-----	79.0	74.7	81.4	79.6
Offshore-----	60.3	52.8	85.2	76.9
Texas Gulf:				
Onshore-----	89.6	85.2	97.4	93.5
Offshore-----	98.6	100.0	100.0	100.0
Permian-----	71.8	79.8	90.2	91.4
Hugoton-Anadarko-----	74.1	69.8	94.7	88.2
Alaska-----	99.7	99.7	100.0	100.0
Total United States-----	97.1	96.4	98.9	98.3

By Mr. FORQUER:

Q. Mr. Kofkin, you've given us various dates with respect to the times which you received requests or made requests.

Please indicate for the record the basis of the dates for these various things.

A. The material dated February 27, after receiving the assignment from Dr. Wilson, I made a copy of the note of assignment and on the copy wrote the date, 2-27-73. I have in my file a note to myself that I spoke with Mr. Zabel on 2-27-73. The other dates are derived from diary entries on April 2nd, 3rd, 4th; June 8th and June 13th, all dates of this year.

Q. Let me go back to just one of those dates.

Does your diary reflect that on April 4 you went to Mr. Mangen with respect to the errors in the material, and he told you he didn't have it? As I recall, originally you told it was either April 4 or April 5.

A. My diary has a notation that I found errors in the original report, and I state: "Will have to check all figures in the report."

Q. So you don't know whether you did it that day or the next day?

A. Or the next day, that is correct, sir.

Mr. FORQUER: Off the record.

[Discussion off the record.]

Mr. FORQUER: On the record.

By Mr. FORQUER:

Q. Mr. Kofkin, we have covered everything of which you have any knowledge with respect to this particular matter, is that correct?

A. Yes, sir.

Mr. FORQUER: That's all I have.

Mr. MAXSON: Thank you very much, Mr. Kofkin.

Mr. KOFKIN: Thank you.

Mr. FORQUER: You've been most helpful.

[Whereupon, the deposition was concluded at 3:20 o'clock p.m.]

Before the Federal Power Commission

DEPOSITION OF LAWRENCE R. MANGEN

ROOM 9106,
 FEDERAL POWER COMMISSION,
 825 NORTH CAPITOL STREET NE,
 Washington, D.C., June 12, 1973.

The above-entitled matter convened, at 8:45 a.m.

Before : LEO FORQUER, General Counsel, Federal Power Commission ; WEBSTER P. MAXSON, Executive Director, Federal Power Commission

PROCEEDINGS

[Lawrence R. Mangen, being duly sworn by Alice Rothwell, a notary public in and for the District of Columbia, testified as follows:]

EXAMINATION

By Mr. FORQUER:

Q. Will you state your name and address, please.

A. Lawrence R. Mangen, 2724 Keystone Lane, Bowie, Maryland.

Q. You are an employee of the Federal Power Commission?

A. Yes, I am.

Q. What is your title?

A. Assistant Section Head, Gas Supply and Production Section, Systems Operations Division, Bureau of Natural Gas.

Q. You are familiar with the Commission's Policy Statement in Docket R-405, which was a notice of investigation and proposed rule-making with respect to developing emergency plans issued November 4, 1970, are you?

A. Let's say I read through it. I don't know if I would say I was familiar with it.

Q. All right. Well, are you familiar with the subsequent Order of September 12, 1972, updating nationwide investigation, also issued in Docket R-405?

A. Yes, I am.

Q. By ordering paragraph 1 of the Order of September 12, 1972, you were designated as the Investigating Officer, were you not?

A. Yes.

Q. Please indicate the procedure which you followed in receiving the information referred to in that order.

A. As the order states, the material was supposed to be brought or sent to me at my office at Room 2071, 441 G Street, Northwest, plainly marked confidential on or before October 6, 1972. Certain companies called and asked if they could mail the material instead of bringing it in person, which I said would be all right if they were willing to take the chance that the confidential material might be exposed to loss in the mail.

Q. During what period of time were these filings made?

A. Well, although the filings were supposed to be submitted by October 6th, all the filings did not come in at that time. It was necessary for me to write a letter to the respondents who had not filed telling them that they were required to file by the order and we had not received their filings yet. This was in November. I believe a letter exists somewhere here. I could probably get it for you.

Didn't I give you that date, Web, of that letter that went out to the respondents?

Mr. MAXSON. I don't have it.

The WITNESS. Well, we can get that later if it is necessary.

By Mr. FORQUER:

Q. All right. What did you do with these materials as they were received?

A. As soon as the materials were received I examined them to see if they were the proper filing, and then had them extracted on to work papers for our use for the composite report which was required by the Commission order.

Q. Well, who made these extractions and computations?

A. Joyce Powell, a statistical clerk who works under my supervision.

Q. Did anybody else have access to these documents?

A. Carl Pavetto, an engineer, also worked on compilings of the report under my direct supervision.

Q. And these were the only persons that had access to the original filings?

A. Yes.

Q. Where did you keep these documents?

A. I kept these documents locked in my desk.

Q. Now, what was your role in the preparation of the Staff report filed by Thomas J. Joyce, Chief of the Bureau of Natural Gas, which was submitted to the Commission on February 9, 1973?

A. The draft memo and the tables were prepared by me or under my supervision.

Q. Well, in the preparation of these tables were the services of any other parties used than the two you have mentioned?

A. Oh. A typist in our office typed up the draft.

Q. What was the typist's name?

A. Toni Brown.

Q. Did you receive any requests for data from any other bureau or office in the Federal Power Commission?

A. Yes. I received a request from the Office of Economics.

Q. What was the nature of that request?

A. They wanted me to give them the filings that were behind the report that had been made to the Commission and placed in the Public Reference Room.

Q. And what disposition did you make of that request?

A. I told the person from Economics that under the conditions of the order I did not believe I had the authority to release the work papers to them.

Q. Did you have any other requests?

A. Haskell Wald wrote a letter to Mr. Joyce, which Mr. Joyce showed me, in which he requested that we prepare for him a compilation of the four largest and eight largest producers by areas from the work papers. Mr. Joyce directed me to do so, and I prepared such a sheet and sent it to the Office of Economics.

Q. What were the dates, if you have them, of the requests for these data and your response?

A. I don't have a copy of the memo from the Chief of the Office of Economics but I do have our memo which is dated March 21st sent to the Chief of Office of Economics stating that the tabulation is attached and that because of the provisions of the order and the confidentiality of the material the composite report should remain confidential.

Q. Now, after the report to the Commission and the issuance of that report, what did you do with these filings and work sheets?

A. I retained them for a period of time awaiting—let's put it this way. I had retained these work papers. I had intended to destroy them but hadn't gotten around to it yet, as I thought I was supposed to under the provisions of the previous R-405 ruling and the current one. During that interim time we got a request from Senator Hart for the underlying information behind the composite report that we had placed in the Public Reference Room.

Q. What was the date of the request from Senator Hart?

A. I don't recall.

Do you have that?

Mr. MAXSON. I don't.

By Mr. FORQUER:

Q. Was this a written request?

A. Yes.

Q. Then it is in the files of the Commission.

A. It is in the files of the Commission, yes.

Q. Well, advertiring back to the Commission's Order of September 12, 1972, what did you consider your responsibility under the provisions of the order which stated that the information received as a result of this continued investigation will be maintained in confidential status?

A. My interpretation of that statement, coupled with my understanding of how the previous material had been handled in the first R-405, that the companies had the right to request the return of their filings, and that if they did not wish them returned they should be destroyed. And I didn't see anything in the order which would be in opposition to that, and I thought the statement that they should be maintained in a confidential status meant until the composite report was published for the use of the Commission.

Q. What was your understanding with respect to the use and treatment of this data in the previous investigation under R-405?

A. My understanding of that proceeding was that the information was to be composited and used in the report and any filings that the Commission received would be returned to the respondents.

I was unable to locate any data from that rule-making proceeding.

Q. Do you recall whether under that original investigation an investigating officer was appointed and were the same provisions in that order with respect to submitting it to the investigating officer?

A. As far as I know, yes.

There is a letter written by a member of the Office of General Counsel, Mr. Tourtellotte, in which he states that any filings sent to the Commission would be returned to the companies.

Q. You are referring to a letter of November 20, 1970, signed by James R. Tourtellotte, are you not?

A. Yes.

Q. Isn't it a fact that that letter provided for the submission of information to the investigating officers either in Houston, Texas, or Washington, D.C., and stated that the reports will be returned immediately upon transcription?

A. Yes.

Q. Was there any comparable provision or letter written with respect to the investigation under which you were the investigating officer?

A. No. I would like to state, though, for the record, that the company officers who brought this material to me stated that that was their understanding of the filing: that at their request upon completion of the composite report, they would be allowed to get their filings back.

Q. Was any request ever made to you as investigating officer for return of the data to representatives of individual companies?

A. Yes.

Q. Were those in writing?

A. No. The request was by telephone.

Q. Did you return the filing to the requesting company?

A. Yes, I did.

Q. Can you tell us who made these requests and on behalf of what companies?

A. Mr. Sherman Poland, representing the Humble, now Exxon Company.

Q. And the Exxon data were returned to the company?

A. Yes.

Q. Were there any others?

A. The other companies indicated their preference was to destroy the material rather than have it sent back to them, returned to them.

Q. Who so indicated to you?

A. Several of the officers that had brought the material in, but the only one whose name I can recall right now is Dick Generelly, who represented Forest Oil Company and some other oil companies.

Q. When did you finally conclude that these materials should be disposed of?

A. Sometime in the Month of April.

Q. And what did you do in connection with them?

A. I collected the documents, placed them in a bundle, and took them down to the Security Officer, Mr. Brent Vivian, and told him that there were confidential papers that I no longer had any use for, and that rather than throw them in the trash where the confidentiality might be violated I would like to have him dispose of them in some proper manner. He indicated to me that he usually only handled national security papers but that he would accede to my request.

Q. Did you discuss the proposed disposition of these documents with anybody else in the Commission?

A. Other than indicating to the people on my staff who had worked on this that I was going to destroy these papers. I did not contact Mr. Thomas Joyce or any other Officer of the Commission about destroying these papers.

Q. After you discussed this matter with Mr. Vivian did you in fact deliver them to him?

A. I delivered them at the same time I discussed it with him.

Q. And that was in April of this year?

A. April of this year.

Q. Did you at any subsequent time inquire from Mr. Vivian whether these documents had in fact been destroyed?

A. A short time ago Mr. Thomas Joyce came into my office and asked if I could get the work papers together because the Chairman had a letter from Senator—a request. I don't know whether it was a letter or telephone—a request from Senator Hart saying these materials were needed. I told Mr. Joyce that I had them destroyed, and he was very upset, because he didn't know that I had done this. So he asked me if there was any way that we could reconstitute the data or put it together again. I said that I didn't know of any way, but perhaps the papers had not yet been destroyed. So I would contact Mr. Vivian and determine this.

I called Mr. Vivian and he said yes, he still had them, but he had torn them up and placed them in burn bags to be destroyed. I said to hold them there and I would come down for them.

I went down immediately and went through these burn bags and picked up all the pieces of the documents that I could recognize. I got members of my staff together and we went into Mr. Joyce's conference room and organized them as

best we could and restored these papers to their original condition except for the tears.

And we now have in our possession a complete set of all the filed documents except for the one which was returned to Humble, and except for one which was never filed by a company which they said they had no reserves and that they would file and never did, and since the Commission indicated a need for the report as soon as possible I completed the composite without their filing.

Q. Well, there were others that indicated they had not uncommitted reserves and filed a certification to that effect, did they not?

A. Yes, they did.

Q. This one you accepted without certification.

A. Yes.

Q. Going back for a moment to the investigation of November 1970, pursuant to the Order of November 4th of that year, you are not familiar with the manner in which the investigating officers conducted that investigation. Is that correct?

A. I was working for the Commission at that time and I knew from talking to the investigating officer what he had done. But I wouldn't classify that as being familiar with the procedures.

Q. Do you know whether it is correct that in connection with that investigation that the data were presented to the investigating officers and immediately transcribed on work sheets with the data at that time being returned to the producer?

A. I don't know that for sure. I understand it was true in some cases.

Q. In connection with the lack of a certification by the one company to which you referred, were there any other instances in which you accepted verbal assurances without receiving any filing or other written submission to you?

A. No. In fact, I made at least five phone calls to the company offices of the company which did not file, and each time they assured me that even though they did not have any reserve, they would file. But I never received any filing.

I recently called the office and talked to the man and he said that he had filed, but we have no record in the Commission of their filing ever getting here.

Q. Now referring back to the request from Mr. Wald, Chief of the Office of Economics, for a breakdown of these data, you have indicated you don't know the date of that request. Could you approximate the date in view of the fact that your reply is dated March 21, 1973?

A. The first telephone request was approximately one week after the data was filed in the Public Reference Room—composite report.

Q. What was that date?

A. I don't recall what it is, but I think Web can give that to us. On February 22, 1973.

Q. So on or about March 1st you received a telephoned request for this breakdown. Were there subsequent requests?

A. Following my refusal to supply the confidential filings to the Office of Economics for study, Mr. Haskell Wald wrote a memorandum to Mr. Thomas Joyce requesting that this information be supplied to him. And that particular memo has a date on it, and that was the next request that I recall. And it was sometime prior to this March 21st date.

Do we have a copy of that.

Mr. MAXSON. Off the record.

[Discussion off the record.]

By Mr. FORQUER:

Q. Do you wish to indicate as a result of our off-the-record conversation that the request which resulted in the March 21st memo may have been at a conference rather than through written memo?

A. Yes.

Q. Do I understand that the first request, the telephoned request was for the actual filing rather than any breakdown?

A. Yes.

Q. The later request which was responded to by the March 21st memo was for the breakdown of the four largest and the eight largest producers by producing areas; is that correct?

A. That is correct. Not identifying the companies in any way.

Q. Did you receive any further communications or have any further discussions with members of the Office of Economics with respect to the data you furnished on March 21, 1973?

A. Yes. I received a telephone call from the Office of Economics in which they indicated—and I don't recall the date of this; it was sometime after this March 21st submittal to them—that the data that they had for these largest companies

didn't match up somehow with the composite report, and that would I please check and see if I can see where the error is. And unfortunately, at that time the Humble original filing had been returned so there was no way for me to go back to the original document and find out if there had been an error in that filing.

Q. Well, at the time of these discussions, was this before you took the materials to Mr. Vivian for destruction?

A. Yes.

Q. Well, in view of the further requests by the Office of Economics, why did you then ask Mr. Vivian to destroy the documents?

A. I waited for a certain time period to see if there would be any further developments. We got no further requests from the Office of Economics; I assumed that they were now satisfied, and determined that the documents should now be destroyed.

Q. How long a period was there from this final discussion with them and your delivery of the documents to Mr. Vivian?

A. I can't recall exactly.

Q. Approximately how long?

A. It must have been at least two or three weeks, but that is the best I can do.

Q. When did you say approximately you delivered them to Mr. Vivian?

A. Sometime in the middle or third week in April.

Q. Then it was a month or less after you had written the memorandum to the Office of Economics of March 21st setting forth the breakdowns by the four largest producers and the eight largest producers; is that correct?

A. Yes, that's correct.

Mr. FORQUER. Larry, we will have this typed up and you can go over, and then if it is an accurate transcription we would ask you to sign it.

The WITNESS. Okay.

Mr. FORQUER. Thank you very much.

[Whereupon, at 9:20 a.m., the deposition was concluded.]

Before the Federal Power Commission

DEPOSITION OF DAVID SCHWARTZ

ROOM 9106,
FEDERAL POWER COMMISSION,
825 NORTH CAPITOL STREET,
Washington, D.C., June 22, 1973.

The above-entitled matter convened, at 4:25 p.m.

Before : LEO FORQUER, General Counsel, Federal Power Commission ; WEBSTER P. MAXSON, Executive Director, Federal Power Commissison

PROCEEDINGS

[David Schwartz, being duly sworn by Regina M. Spradling, a notary public in and for the District of Columbia, testified as follows:]

EXAMINATION

By Mr. FORQUER:

Q. Please give your name and home address.

A. David S. Schwartz, 7317 Broxburn Court in Bethesda, Maryland.

Q. What is your official position with the Federal Power Commission?

A. Assistant Chief of the Office of Economics.

Q. Mr. Schwartz, what we are trying to do is obtain any information we can with respect to anything that may have led to the alleged destruction of documents obtained pursuant to the Commission's order of September 12, 1972, in Docket No. R-405 or later. You are familiar with the provisions of that order, are you not?

A. Yes, I am.

Q. Would you tell us, in your own way, such information as you have, hopefully in chronological order, with respect to this matter?

A. Yes, I would be glad to.

I have very little information. I might just add that my concern is very tangential. As Assistant Chief, I have supervisory responsibilities, and I was not directly involved in the request for the backup information that was submitted in response to R-405. I do recall seeing the press release issued February 22. I do

recall talking with Dr. Wilson relative to the potential use of the material for his Belco testimony. We thought that getting aggregate information would give us some idea of the control over uncommitted reserves, and that this might be helpful with regard to his general market structure position in the Belco proceeding. The only real information I am aware of beyond that point of initially discussing the relevance that this information might have in terms of working some concentration figures up is some subsequent material that reflected the fact that the information had been destroyed. This was a memorandum that Melvin Kofkin wrote under the date of April 6, 1973 in which in that memo, there were some tables attached. He said he had found some initial errors relevant to the material that was given him.

Then we went back to check the data, and they said it had been destroyed. His memo was circulated to me. I do have a copy of Mr. Kofkin's memo. The only other thing I can recall is a note by Mr. Wilson to the effect that—I guess this was at an early stage—that he tried to get the information, and he could not obtain the information. Then he subsequently was informed that it was destroyed. And I, I guess, wrote a note on his note to me that I felt this was very unsatisfactory. This is about the extent of my own insight and involvement.

Q. You say you had a note from him saying simply that he was unable to get the information that you wanted?

A. I am trying to recall.

The note that I have I wrote on top of his note.

Q. We have incorporated in Mr. Wilson's transcript a copy of an undated note addressed to you and Mr. Wald and a note at the top which he identified as being from you. Here is a copy of the one which was incorporated in the transcript. Is that the one that you referred to?

A. Yes.

Q. As far as you know, you have no other notes, memorandums, or anything else?

A. I have nothing because, as I mentioned earlier, my involvement was very peripheral.

Q. Can you tell me of your own knowledge, whether officials of the Bureau of Natural Gas were advised that these data were requested for use in connection with the Belco proceeding?

A. I do not know from my own knowledge because I did not communicate with officials of the Bureau of Natural Gas that would be or could be used. But I do understand from my discussions with other members of Office of Economics that this information was communicated through them to the Bureau of Natural Gas.

Q. Did Dr. Wilson tell you that, do you recall?

A. I believe Dr. Wilson did communicate that to me.

Q. I take it that this is your only knowledge of this matter and that you had no dealings with anybody or anything subsequent to the memorandum of April 6 which indicated the documents had been destroyed?

A. That is correct.

Mr. FORQUER. Thank you, Mr. Schwartz.

[Whereupon, at 4:30 p.m., the deposition was closed.]

Before the Federal Power Commission

DEPOSITION OF HASKELL WALD

ROOM 9106,
FEDERAL POWER COMMISSION,
825 NORTH CAPITOL STREET NE,
Washington, D.C., June 22, 1973.

The above-entitled matter convened, at 4:05 p.m.

Before: LEO FORQUER, General Counsel, Federal Power Commission; WEBSTER P. MAXSON, Executive Director, Federal Power Commission

PROCEEDINGS

[Haskell Wald, being duly sworn by Regina M. Spradling, a notary public in and for the District of Columbia, testified as follows:]

EXAMINATION

By Mr. FORQUER:

Q. Please state your name and home address.

A. Haskell P. Wald, 9528 Friars Road in Bethesda, Maryland.

Q. What is your official position with the Federal Power Commission?

A. I am Chief of the Office of Economics and Chief Economist for the Federal Power Commission.

Q. Mr. Wald, our inquiry today concerns events leading up to and perhaps subsequent to the alleged attempt of destruction of certain documents submitted to the Commission pursuant to their order of September 12, 1972 updating their investigation of uncommitted gas reserves. You are familiar with that order, are you not?

A. I am.

Q. As I understand from Doctor Wilson, he talked with you on or about February 28 or 29 of this year with respect to his request for certain documents, or aggregations of figures, resulting from that investigation. Do you recall that conversation?

A. Yes, I do.

Q. Is there anything that should be on the record prior to that time with respect to the problem we are concerned with now?

A. I was aware of Doctor Wilson's interest in obtaining these classifications of the data, but there were no documents at that stage of our story.

Q. Now, what did Doctor Wilson report to you on or about February 28?

A. On that date he reported that he was unable to obtain the data that he needed for his study. He also asked me to discuss the matter with Mr. Joyce in order to see if it was at all possible for BNG to provide the data.

Q. Did he tell you why he could not get the data that he wanted?

A. As I recall, he suggested that he was told by BNG that they were unable to provide the data because one of the companies had picked up their information. I do not, at the moment, recall whether he mentioned documents being destroyed, but I notice that in some of the notes prepared by Mr. Kofkin that there is a reference to his having been told that the data had been destroyed as of the date we are now focusing on.

Q. Did you then talk with Mr. Joyce, the Chief of the Bureau of Natural Gas, about this matter?

A. Yes, within two or three days after this conversation I had a session with Mr. Joyce in Mr. Joyce's office. I believe the session was immediately following the Commission meeting. It had not been prearranged, but it seemed like a convenient time to take up the matter. I explained to him we were not interested in identifying individual companies but simply in getting a classification for four-company and eight-company holdings. He then called on the telephone Mr. Mangen and explained to Mr. Mangen what our need was and obtained an agreement from Mr. Mangen that the data could be provided.

Q. What happened next?

A. The next step was on March 22 when I received a memorandum from Mr. Joyce. His memorandum is dated March 21. And attached to his transmittal memorandum was a table supposedly providing the data which we had requested.

Q. For your information, Dr. Wald, that memorandum and tabulation have been inserted in the transcript of Dr. Wilson's testimony, so it is already a part of the record.

A. Let me say that Dr. Wilson said that his copy of the table was not legible. In any case, I was instructed to bring along my copy of the table, and I have done so.

Q. The reason that was asked was, in order for incorporation in the transcript, we want the original which is legible. The copies we have were not.

Q. I have the original.

Mr. FORQUER. Off the record.

[Discussion off the record.] By Mr. FORQUER:

Mr. FORQUER. Back on the record.

Q. What next happened insofar as you know?

A. I forwarded the memorandum of March 21 to Mr. Wilson and attached to it my own route slip stating we had received the answer from BNG and expressing my interest in seeing the percentages which could be computed from the data provided by BNG. I did not hear anything further until April 6 when

I received a memorandum addressed to Mr. Wilson and prepared by Mr. Kofkin. This memorandum indicated there were errors in the information which we had received from BNG and it also indicated that Mr. Mangen reported that he could not verify the data because all of the records were destroyed last week. The last expression is a quotation from Mr. Kofkin's memo.

Q. First of all I will show you page 18 of the transcript of Mr. Kofkin's testimony, and is this the buck slip with which you sent the material with Mr. Wilson?

A. That is correct. I have the original here.

Q. I now show you pages 20 and 21 of the transcript. Is that a copy of the memorandum you just referred to from Mr. Kofkin to Doctor Wilson, chief of the Division of Economic Studies?

A. That is a copy, yes, sir.

Q. What did you do upon receipt of this memorandum?

A. I did nothing because the memorandum seemed to say that the matter was ended since the data had been destroyed. And I saw no point in pursuing the matter further.

Q. You did not discuss it with Mr. Joyce or the Executive Director or the Chairman?

A. I did not.

Q. Was it your understanding of the Commission's order that these data were to be retained?

A. I had no understanding about the disposition of the data. I knew the order had required the data to be confidential, and the question of whether the data should be retained or destroyed is one I had not given any thought to.

Q. Did you have any discussions with Mr. Joyce or others with respect to the administratively confidential tag which he had placed on the March 21 tabulation?

A. I did not.

Q. In other words, as I understand it, after receipt of Mr. Kofkin's memorandum of April 6 you made no further attempt to do anything with respect to this matter?

A. That is correct. Let me explain that these data were requested for possible use in Dr. Wilson's cross examination in the Belco proceeding. Since he was a witness in that proceeding, I was not involved in his preparation for cross examination so that my role here was simply as an intervenor to facilitate obtaining the data, but I had no involvement with the use of the data.

Q. Do you know whether anybody was advised that these data were requested for use in the Belco proceeding?

A. I am not aware that they were so advised.

Mr. FORQUER. Thank you very much, Mr. Wald.

[Whereupon, at 4:20 p.m., the deposition was closed.]

Before the Federal Power Commission

DEPOSITION OF: JOHN WILSON

ROOM 9106,
FEDERAL POWER COMMISSION,
825 NORTH CAPITOL STREET NE,
Washington, D.C., June 22, 1973.

The above-entitled matter convened, at 3:15 p.m.

Before: LEO FORQUER, General Counsel, Federal Power Commission;
WEBSTER P. MAXSON, Executive Director, Federal Power Commission

PROCEEDINGS

[John Wilson, being duly sworn by Regina M. Spradling, a notary public in and for the District of Columbia, testified as follows:]

EXAMINATION

By Mr. FORQUER:

Q. Give your name and address.

A. My name is John Wilson. I live at 6424 Bellevue Drive in Columbia, Maryland.

Q. What is your official position at the Federal Power Commission?

A. I am the Chief of the Division of Economic Studies in the Office of Economics.

Q. Mr. Wilson, what we want to do is obtain such information as you have with respect to the alleged attempt at destruction of documents received by the staff in connection with the Commission's order of September 12, 1972 in Docket R-105 updating the nationwide investigation of uncommitted gas reserves. Will you just tell us in your own words when you first had any connection with this and what the sequence of events was?

A. The sequence of events would begin with the issuance of the Commission's news release, I believe it was, on February 22, 1973 on these nationwide reserves. Shortly after that, on or about 27 February, I asked Mr. Kofkin of our office to check with the Bureau of Natural Gas to find out if it was possible to obtain concentration ratios pertaining to that data. Mr. Kofkin did that on 27 February and was informed by, I believe it was Mr. Zabel in the Bureau of Natural Gas, that the data that we wanted to obtain were confidential and that the documents had been destroyed in accordance with the Commission's order.

I was skeptical at that time that the data had been destroyed. My reading of the Commission order did not imply that anything like that was supposed to take place. And upon learning what Mr. Kofkin had been told by the Bureau of Natural Gas, I talked with Dr. Wald, Chief of the Office of Economics, and he indicated he would see whether, in fact, the information we had been given was correct, and whether the information was obtainable.

Q. Excuse me. Was that probably on February 27 or within a day or two?

A. I would say it would be within a day or two thereafter, yes, sir. Mr. Wald communicated with Mr. Joyce, the Chief of the Bureau of Natural Gas, and sometime toward the early part of March he indicated to me that the Bureau of Natural Gas would, in fact, provide us with the concentration ratios that we had requested.

Q. Did Mr. Wald say who had told him that?

A. Yes, sir. He said he had talked with Mr. Joyce.

Q. Mr. Joyce told him?

A. Yes, sir.

Q. Please go ahead.

A. Then on, I believe it was the 21st of March, a memo dated 21 March was received by the Office of Economics and appended to that memo was the tabulation of the type we had requested from the Bureau of Natural Gas. This was forwarded to me with a note from Dr. Wald on the 22nd of March. I passed this material on to Mr. Kofkin. The ratios had not been calculated at that time. The concentration ratios we were looking for was a matter of dividing up some of the numbers we had obtained by other numbers. And I gave that to Mr. Kofkin and asked him to complete the calculations. He apparently ran into some difficulty when he began to make these calculations because some of the numbers that he had had been provided us for the top four firms and the top eight firms in certain areas and were apparently greater than the total amount of production reported for those areas for the Commission's February news release.

Upon discovering these inconsistencies in the data, Mr. Kofkin got in touch with Mr. Mangen in the Bureau of Natural Gas early in April, and he obtained certain limited corrections from Mr. Mangen. I believe that it was on or about April 3rd. The next day he discovered some more errors. And on or about April 5 he was informed by Mr. Mangen that additional verification or correction would not be possible because the data, the original reports, had been turned over to the security people and had been destroyed.

Q. You say it was on or about April 5?

A. I believe so, to the best of our recollection. The reason I say that is because he did have some diary pages that indicated that on April 4 he discovered the second set of errors that he found. And on April 6 he transmitted a memorandum to me indicating the results of his final attempts to obtain corrections from Mr. Mangen. So it was between the 4th and the 6th of April, and so that is why I say on or about April 5.

At that time we were disappointed because the figures that we did have seemed to be unreliable. There seemed to be some errors in them. We did not want to use them that way, and it did not appear that any type of correctional explanation of the errors was possible. I sent a little note covering a copy of the memo that Mr. Kofkin had sent to me to Mr. Schwartz and Mr. Wald indicating our disappointment at the fact that the data were not available and BNG had let the information escape despite the fact we were interested in obtaining it. Between that time and June 7 when I talked with Mr. Maxson, we were under the im-

pression the data were not available, and consequently did not pursue anything along these lines.

Q. Are you saying it was on June 7 that you found the data had been retrieved or had not been irretrievably destroyed?

A. Yes, sir, it was on Thursday evening, June 7 that Mr. Maxson came to my office shortly after 5 o'clock, about 5:15 and indicated to me that he wanted to know what the circumstances were regarding our original request of BNG pertaining to these data. At that time he indicated to me that the data had, in fact, not been destroyed, that there had been a destruction attempt. And later that same evening when I brought a copy of the Kofkin memo of April 6 indicating that Mr. Mangen had told him that the data had been destroyed, Mr. Maxson and I talked further. And he showed me a two-page scenario which he indicated had been prepared by Mr. Vivian describing the timeframe within which the data were supposed to have been transmitted to Mr. Vivian's people for destruction.

Q. Are there any subsequent developments that have anything to do with this particular inquiry?

A. I do not believe so, no, sir.

Q. Let me go back and ask you: When Mr. Kofkin reported to you on February 27 that the documents had been destroyed according to Mr. Zabel. Did you talk to Dr. Wald about it? Is that correct?

A. Yes.

Q. Did Dr. Wald tell you what was the result of his conference with Mr. Joyce? As I recall you said that Mr. Joyce said the Bureau of Natural Gas would furnish the concentration ratios that you wanted, is that correct?

A. That is right. Mr. Wald and Mr. Joyce may have had more than one conversation about this. The only thing that I can recall explicitly is that as a result of communication between Dr. Wald and Mr. Joyce, we did learn in March that the Bureau of Natural Gas did have the data. It had not been destroyed and they would provide us with the computation that we had corrected. And then on the 22nd of March I received from Mr. Wald the data that had been furnished by Mr. Joyce which, incidentally, was at that time marked by Mr. Joyce as administratively.

Q. But Dr. Wald did not indicate to you anything that Mr. Joyce said with respect to why these had been reported to be destroyed by Mr. Zabel and now apparently were in existence?

A. No, sir.

Mr. FORQUER. Off the record.

[Discussion off the record.]

Mr. FORQUER. On the record.

By Mr. FORQUER:

Q. Mr. Wilson, I present you with an original of the March 21 memorandum from Mr. Joyce to Dr. Wald. Attached to it is the tabulation which you were talking about. Is this the memorandum you referred to in your testimony?

A. Yes, sir.

[The above mentioned memorandum follows.]

MARCH 21, 1973.

Memorandum to: Chief, Office of Economics.

From: Chief, Bureau of Natural Gas.

Subject: Uncommitted Gas Reserves, Docket No. R-405.

As requested by you I directed the Investigating Officer, Mr. Lawrence R. Mangen, to composite information on uncommitted gas reserves of the 4 largest and 8 largest producers by the reported areas. This tabulation is attached.

It is my belief that this composite report does not violate the strictures of the order under which the data was obtained.

However, because of the provisions of the order and the confidentiality of the material, the composited report should remain Administratively Confidential.

THOMAS J. JOYCE.

Attachment.

ARGEST PRODUCERS — PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE
All volumes in MMCF @ 14.73 pcf & 60°F

ALL VOLUMES IN MMCE @ 14.73 PIA & 60°F)

Mr. FORQUER. Off the record.

[Discussion off the record.]

Mr. FORQUER. Back on the record.

By Mr. FORQUER:

Q. Mr. Wilson, referring back to the advice from Mr. Zabel to Mr. Kofkin in the later part of February, 1973, I believe you indicated it was your understanding of the Commission's order that the document could not be destroyed, is that correct?

A. Not precisely. I said I did not see anything in the Commission's order that indicated to me that the Commission desired to have the documents destroyed. Therefore, it struck me as unusual for Kofkin to tell me that that was, in fact, what had happened. And consequently I pursued the matter with Mr. Wald.

Q. You raised that question with Mr. Wald when you discussed it with him within the next day or two?

A. Yes, sir. I indicated to him what Mr. Kofkin had told me. And I simply asked him whether it would be possible for him to check further with the Bureau of Natural Gas and see if what we had been told was accurate, and if it was not, if we could get the computations that we wanted.

Q. Did you, at any time during this period, talk with Mr. Mangen about these matters?

A. No, sir, I never talked with Mr. Mangen about these matters.

Q. On April 5 when Mr. Mangen advised—I guess it was Mr. Kofkin, is that correct?

A. Yes.

Q. —that the papers had been turned over to the security officer for destruction, did you raise any question then or make any additional inquiry with respect to the reason for the destruction?

A. I did not specifically make inquiries with regard to the reason for destruction, but on April 6, upon receiving Mr. Kofkin's memorandum explaining why he was not able to verify this information, and pointing out that Mr. Mangen had told him the data were destroyed, I did write a note to Mr. Schwartz and Mr. Wald indicating my displeasure with the situation, and in that note I asked whether it was not possible that BNG might have another copy of that information that we could get access to and obtain the calculations we wanted. That note is available.

Mr. FORQUER. Off the record.

[Discussion off the record.]

Mr. FORQUER. Back on the record.

By Mr. FORQUER:

Q. Mr. Wilson, I hand you a handwritten note which is addressed to Mr. Schwartz and Mr. Wald which has no date but bears in the upper righthand corner a notation which says:

"I agree with John. I think we should inform Joyce and Mangen (Albares, etc.) of our displeasure."

It is signed D.S.S. Was that note written by you?

A. It was written by me on or shortly after April 6.

Q. The D.S.S. is David Schwartz?

A. Yes, sir.

Q. This note was written at the time you were advised the papers had been turned over to the security officer for destruction, is that right?

A. That is right. I wrote this upon receiving this information from Mr. Kofkin.

Q. To the best of your knowledge, was any statement made or questions asked of Mr. Joyce or Mr. Mangen or others as to the accuracy of this report of destruction?

A. Other than Mr. Kofkin's communication with Mr. Mangen, and Mr. Mangen informing him of the details that had allegedly taken place, I am not aware of any contact that was made with Mr. Joyce or Mr. Mangen.

Q. The occasion for your memorandum I guess was Mr. Kofkin's report to you of what Mr. Mangen had said, is that correct?

A. Correct.

Q. But to the best of your knowledge, no further discussions were held with personnel in the Bureau of Natural Gas who might know of this matter?

A. Not that I am aware of.

[The above-referenced memorandum follows:]

Mr. WALD. I agree with John. I think we should inform Joyce and Mangen (albores, etc.) of our displeasure, D.S.S.

BNG's lack of accuracy (and apparently of cooperation) in this matter is most distressing. Since they knew of our desire to use the data why would they destroy it? Is it possible that another copy is available so that we can make our own verification?

By Mr. FORQUER:

Q. Did you at any time request from Mr. Mangen or others the original reports of the producer in connection with this investigation?

A. I never made any direct request to Mr. Mangen. It was my desire to get the concentration ratios, and certainly, our staff would have been willing to compute those concentration ratios or to obtain them in a computed form the way they were provided for us by BNG. But anything other than that, we were not interested in.

Q. To your knowledge, did anybody, Mr. Kofkin or others, request the original submission?

A. Not that I know of except insofar as in what Mr. Kofkin may have said, could we have the original documents to compute concentration ratios. Whether he did that or whether he just asked to have somebody there calculate the concentration ratios, I do not know. We were interested in getting the concentration ratios. Normally we do not ask other people to do work for us when we are capable of doing it ourselves, but in this case apparently BNG wanted to do the work.

Q. Did you interpret the Commission's order as requiring these documents and the reports in them to be kept confidential?

A. My interpretation of the Commission's order was that individual company proprietary information was collected and was going to be maintained in a privileged fashion by the Commission. In other words, the individual company data would not be made publicly known. It was not my interpretation of the Commission's order that aggregated the computations such as the ones we requested were necessarily under the same restrictions. And when we requested the concentration ratios, I was under the impression that this would not be confidential information because it would not identify individual companies or the individual company's quantities. I was, frankly, quite disappointed, even before I knew there were errors in the original material we got from Mr. Joyce, because of Mr. Joyce's indication that the material must be kept administratively confidential.

Q. Was it your view that Mr. Joyce could have declared them nonconfidential?

A. It was my understanding of the Commission order that individual company data were confidential, that by virtue of the fact that the Commission published aggregated data already, that that clearly was not something the Commission viewed as being prohibited.

Q. Did you or did anybody else in the Office of Economics, to your knowledge, request the Commission to remove any status of confidentiality that might have been attached to these aggregations of figures that you wanted?

A. No, sir. On the 8th of June however, after having found that the data were, in fact, not destroyed, and that they had been retrieved, I did write a memorandum to Mr. Joyce reinstating our request for the concentration ratios. And at that time I did indicate to him that it was not my understanding of the Commission's original order that these concentration ratios should be held in a confidential status as he had indicated in March.

Mr. FORQUER. Thank you very much, Mr. Wilson.

[Whereupon, at 3:50 p.m., the deposition was closed.]

Before the Federal Power Commission

DEPOSITION OF: GEORGE B. VIVIAN

ROOM 9106,
FEDERAL POWER COMMISSION,
825 NORTH CAPITOL STREET NE,
Washington, D.C., June 12, 1973.

The above-entitled matter convened at 9:25 a.m.

Before : LEO FORQUER, General Counsel, Federal Power Commission ; WEBSTER P. MAXSON, Executive Director, Federal Power Commission

PROCEEDINGS

[George B. Vivian, being duly sworn by Alice Rothwell, a notary public in and for the District of Columbia, testified as follows:]

EXAMINATION

By Mr. FORQUER:

- Q. Will you state your name and address, please?
 A. George B. Vivian, 902 Enderby Drive, Alexandria, Virginia.
 Q. And you are customarily referred to as Brent Vivian, right?
 A. Brent Vivian, that's correct.
 Q. Mr. Vivian, I want to ask you a few questions with respect to the documents which Lawrence Mangen brought to you for destruction. Do you recall that?

A. Yes, I do.

Q. Do you have any records or do you recall the approximate date on which he brought the records to you for destruction?

A. I have no record of the exact date, but as best I can recollect it was approximately April the 23rd or 24th. And I cannot be sure of that date.

Q. What did he say to you at that time?

A. First he called me and asked if I took care of the destruction of classified material, and I told him that I did. He then said he had some material that he would like to bring down for me to destroy, and I said fine.

In a few minutes he did come to the office with a fairly large stack of papers. I asked him what the material was so that I would have some general idea of the content. He told me that it consisted of reports from some utility companies having to do with something on the National Gas Survey, and that the companies either wanted the material to be returned to them when the Commission was finished with it or it was to be destroyed, and this material was no longer of any need and would I get rid of it the next time I went to the incinerator.

I put the documents in one of our safes and they were locked up then until—take this off the record.

[Discussion off the record.]

The WITNESS. In view of the upcoming move of the Commission from the GAO Building to our new building, I hoped to destroy this material as well as some national security classified material prior to the move, which was to be, in the case of our office, the weekend of the 11th, 12th and 13th of May.

On or about the 2nd or 3rd of May I asked Mrs. Sue Hyde, who was a secretary in our office at that time, to come in and just watch me tear up the material that Mr. Mangen had given me, so that in case he ever asked about it, yes, I had a witness that I had in fact torn it up.

I tore the material in four pieces, ripping it across and then ripping the pieces again in half, and dropped them in a burn bag. Mrs. Hyde observed me do this.

I had planned then to take this material, probably the next week, over to the Arlington County incinerator, which I had been using for destroying classified material. I knew they were closing, so I called the incinerator to be sure of whether I could take it over. The incinerator people told me that they had been closed for about a week, and they were no longer doing any burning.

I then contacted Incinerator No. 5 in the District of Columbia, and they told me, yes, I could bring material up there for destruction. But with the move and

other work in hand I just didn't have time to go to the incinerator, so the material was then brought over here to our new building.

On the 21st of May, Mr. Mangen called me and inquired had I burned the utility company material. I told him that I had not; that I had torn it up, it was in the safe, but it had not been destroyed.

He stated that he had a need to look through the material to pick out certain of it because something had come up. So he came to our office, I dumped the material out in a safe drawer, and he went through it and found the material that he was particularly looking for, which I believe was a work sheet, a compilation of all of the material on each letter submission.

Later that day he called back to say he might have to have more of that material so not to do anything with it.

Then on the 22nd of May, Mr. Maxson contacted me and asked what had happened to the material. I explained in effect what I have just stated. And Mr. Maxson told me to take no further action to try and destroy the material.

In the afternoon, Mr. Joyce came in and Mr. Joyce and I proceeded to separate those pieces of truly classified material from the utility company material. And while we were doing this Mr. Maxson came into the office and saw us separating the material.

We got it all separated, and Mr. Joyce then took the utility company paper on to his office, and that was the last action I actually had in this matter.

By Mr. FORQUER:

Q. As I understand it, Mr. Vivian, you are the National Security Officer for the Federal Power Commission.

A. I handle the reporting and the handling and the ultimate destruction, where necessary and required, of national security type classified material, yes.

Q. Do you keep a record of the national security type material which you destroy?

A. Yes, indeed, I do. The material is reported by item, by control number where one exists, and I obtain the signature of the Director of the Office of Administrative Operations for the destruction of the material. I sign as Destroying Officer, and I have one other individual from our office who is cleared for classified material as a witness. And he also signs the destruction certificate.

These certificates are on file down in my office.

Q. In connection with the papers that Mr. Mangen submitted to you, did you make a record of that material?

A. I did not. I told Mr. Mangen that I would not give him a receipt for them; that I could keep no record of them. As long as he knew and I knew generally what it was about, but since it was not national security material, I would not keep a record of it.

Q. You made reference to the fact that you and Mr. Joyce separated the necessary parts of the material Mr. Mangen had given you. Do I understand that the parts which you did not return to Mr. Joyce were torn materials which had reference to national security materials and had nothing to do with what Mr. Mangen had submitted to you?

A. That is correct. I was consolidating some national security classified material which I had torn up in the same burn bag with the utility company material.

Q. And as I understand it, all the material which Mr. Mangen had originally given to you was returned to Mr. Joyce. Is that correct?

A. I believe every piece was finally accounted for when they were putting it together.

Mr. MAXON. Off the record.

[Discussion off the record.]

By Mr. FORQUER:

Q. As I understand your previous statement, Mrs. Hyde was a witness to your tearing of the papers which Mr. Mangen had given you. Did she sign a certificate of any character with respect to this destruction?

A. No, she did not, because I was not going to sign any certificate of destruction, and therefore would not require her to sign any certificate.

Mr. FORQUER. I think that is all.

[Whereupon, at 9:40 a.m., the deposition was concluded.]

Before the Federal Power Commission

DEPOSITION OF: VICTOR ZABEL

ROOM 9106,
FEDERAL POWER COMMISSION,
825 NORTH CAPITOL STREET NE,
Washington, D.C., June 22, 1973.

The above-entitled matter convened, at 3:55 p.m.
Before: LEO FORQUER, General Counsel, Federal Power Commission; WEBSTER
P. MAXSON, Executive Director, Federal Power Commission

PROCEEDINGS

[Victor Zabel, being duly sworn by Regina M. Spradling, a notary public in and for the District of Columbia, testified as follows:]

EXAMINATION

By Mr. FORQUER:

Q. Please state your name and home address.

A. Victor H. Zabel, 2525 North 10th Street, Arlington, Virginia.

Q. What is your official position with the Federal Power Commission?

A. I am a geologist in the Gas Supply and Production Section of the Systems Operations Division of the Bureau of Natural Gas.

Q. Mr. Zabel, our inquiry here today concerns the alleged attempted destruction of documents obtained by the Commission from independent gas producers and the worksheets prepared by the staff resulting from that. All of these pursuant to the Commission's order of September 12, 1972 in Docket R-405. You are acquainted with that order, are you not?

A. Not in any detail, only what I have read in the papers and from hearing people talking about it.

Q. You did know that they were making an additional investigation at that time to determine uncommitted gas reserves, were you not?

A. Not specifically. At that time, in September, I was involved in another project which required a lot of travel, and I was in and out of town on alternative two-week intervals. I was not specifically aware of what was going on on that.

Q. Did you have any connection with the staff work which was required in connection with the producer filing?

A. In R-405?

Q. Yes, and the order of September 12, 1972 in R-405.

A. None whatsoever.

Q. Did you talk with Mr. Mangen with respect to the obligations which he might have to carry forward as the investigating officer in that?

A. No, sir. I was not involved in that case at all. It was, as I understood it just from hearing the talk around the office, something very confidential. And in matters of that type, they try to keep the people involved to limited number. And as I say, I was deeply involved at that time in the Natural Gas Survey. And I was either out-of-town or in town rapping up details from my last trip and planning my next trip. I had very little time to be involved in other stuff in the office.

Q. Do you know Melvin Kofkin?

A. No, I first heard his name yesterday.

Q. Then if you had any discussions or conversations with Mr. Kofkin, you did not know with whom you were talking with at the time I take it?

A. I understand he was supposed to have made a phone call or something. I do not know. I get calls frequently from people who are with the Commission who have been referred to me from other bureaus or offices and who are seeking data, and if I have it, since they are with the Commission, I feel obligated to give it to them. If I do not have it, I try to tell them where they can find it. This gentleman may or may not have called me. I have no recollection at all of having received a call from him.

Q. According to testimony we received from Mr. Melvin Kofkin, he stated that on February 27, 1973 he received a memorandum from his supervisor, Doctor John Wilson, requesting him to contact the Bureau of Natural Gas and get certain data with respect to this investigation of uncommitted gas reserves.

In that connection he said, "I contacted a Mr. Vic Zabel on extension 3991."

Was that your extension at that time, Mr. Zabel?

A. I think it was.

Q. He said "He is the gentleman who, I believe, collected the data, and that was on February 27."

He said that he requested of Mr. Zabel that the backup data that would allow

me to make a determination of percentage of concentration for the top four and top eight firms and, "Mr. Zabel informed me the data was confidential by terms of the original order and had been destroyed."

Do you have any recollection of that conversation?

A. No, I do not. The only thing I have ever had to do with uncommitted reserves was in connection with Docket AR-69-1 which was, I believe, the second Southern Louisiana area rate case. If anyone called me about uncommitted reserves, that was what I would think they were referring to. I have been called about that a number of times by various people. I think Exhibit No. 31-A was the number of the exhibit where that data was. I was extensively involved in uncommitted reserves in that docket, and I went out in the field for several months on that docket. And I do know that all the records on that—I never took any records out of the office, and all the records were left and destroyed in the company offices. That was my instruction. If anybody called me on uncommitted reserves, that is what I was involved in—I assume if he did call me, and he possibly did. I do not remember. I was wrapped up in a project, I think it was the Offshore Southern Louisiana Lease Sales. The Bureau Chief asked me to work up an analysis of the Interstate Pipeline Companies and their affiliates involved in that sale. I was involved in that pretty deeply at the time. I had quite a time trying to dig out the affiliations. So if he called me, it was just off the top of my mind. He may have asked me about the uncommitted reserves, and that's the only thing I can think of I would have told him because that is the only thing I ever had anything to do with.

Q. Do I understand your testimony that while you have any definite recollections that if you did talk to Mr. Kofkin on the phone and he asked you with respect to data on uncommitted reserves, it was your impression that he was talking about the investigation in Docket number AR-69-1 with respect to Southern Louisiana in which you were involved and in which you did destroy whatever working papers you had?

A. That is true. I was questioned a number of times about that by different people. Apparently it drew some attention. I was asked about it by a lot of people in the Commission and several people in the Economic Section were always calling me about the reserves in the Southern Louisiana area. That would be all I know because I did not know anything about this R-405 situation because I was not involved in it and was not allowed to be involved in it. I have no desire to be involved in anything else because I already had plenty of work to do.

Q. Is it correct that you testified on the record in AR-69-1 that the papers had been destroyed or your counsel stated on the record that they had been?

A. That was, I believe, in Larry Mangen's testimony. He went on ahead of me and testified as to the procedures, the way he got the initial information, and how it was sampled, and the auditing procedures that we went through to get the reserves that we used, or to test the reserves that were submitted. I believe that was in his testimony.

Q. I take it that you have no knowledge or any further information for the Commission with respect to the issue of the documentation supporting the September 12, 1972 investigation?

A. None whatsoever.

Q. Mr. Zabel, I hand you certain of the worksheets prepared as a result of the investigation instituted on September 12, 1972. Are you familiar with them?

A. It doesn't look like anything I ever had.

FORQUER. Thank you, Mr. Zabel.

[Whereupon, at 4:05 p.m., the deposition was closed.]

Transcripts of Interviews Made by the Subcommittee on Antitrust and Monopoly Staff Concerning Attempted Destruction of Gas Reserves Data by Employees of the FPC

CHRONOLOGY: ALBARES INTERVIEW

AR69-1, Mar. 17, 1970:

Notes and calculations either left with company or destroyed in presence of company representative;

Albares and Mangen witnessed burning of work papers;

Albares and Mangen witnessed burning of composites;

Basis for decision to destroy: testimony of Zabel, Mangen;

Old building, no security officer.

R-405, Nov. 5, 1970.

R-405, Nov. 20, 1970:

Information copied immediately, returned to representatives;

Work papers made by Tourtellotte and Williams;

Work papers kept by Tourtellotte and Williams;

Mangen searches for errors.

Order Directing Study and Analysis of Natural Gas Reserves, Dec. 21, 1971:

Prescribing Procedure for Natural Gas Survey, Williams tells Albares data no longer "exists", Spring (?), 1972.

R-405, Update, Sept. 12, 1972:

Questionnaire instead of sending representatives out;

Mangen directly responsible to Joyce.

Deadline for questionnaires to be submitted, Oct. 6, 1972:

Companies mailed it or delivered it.

Discussions: Albares and Mangen—where data would be kept, Oct. or Nov.:

Decision: safe in administrative office.

Discussion: destruction—to preserve confidentiality:

Moving from old building prompted discussion;

Decision: check with Mr. Vivian and Mr. Joyce prior to destruction.

Discussion: procedure—same as before:

Decision: Joyce confirms same as before.

Meeting: Maxson, Joyce, Mangen—"keep these papers". Early 1973.

Meeting: between Wilson and Joyce, before Feb. 27, 1973.

Wilson requests information, Feb. (?), 1973.

Mangen gets phone call, Feb. or Mar., 1973.

Mangen gets phone call, Feb. 27 (?), 1973.

Mangen indicated he had given data to security officer, Feb. 27, 1973:

Data provided as requested, 2 weeks after requested.

Sen. Hart's request, Mar. 22 (?), (before Apr. 1).

Material furnished to OEC, Mar. 27, 1973.

Mistakes discovered afterward.

Mangen told Albares he delivered papers to security officer, Apr. 1, (?) few weeks leeway.

Papers delivered to Mr. Vivian, Apr. 9 memo.

Memo from Chairman, wording altered, reconfirms earlier instructions, June 29, 1973.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY STAFF INTERVIEW WITH EDWARD ALBARES, AUGUST 6, 1973

Let the record reflect that this interview is being recorded. Present are Mr. Edward Albares, Mrs. Patricia Barfo, Mr. Charles Bangert. The time is now 9:40, the date is August 6.

Q. Mr. Albares, I believe you know the Chairman of the Subcommittee had asked the staff to conduct an investigation into the circumstances surrounding the alleged attempted destruction of documents by an employee of the Federal Power Commission and that is the purpose of the interview. Since the nature of the conduct being investigated may amount to a violation of one or more federal laws, we believe it only proper that you be advised of your rights. You have the right to remain silent, to refuse to answer any questions you feel may tend to incriminate you. Anything you do say can be used against you in any other proceeding. You have the right to have counsel of your choice with you during questioning, and the right to talk to him for advice before we ask you any questions and before you answer any questions. If you desire to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You will also have the right to stop answering at any time until you talk to a lawyer.

I'm going to hand you a copy of the form I was reading from. We did give those types of forms to all that were being interviewed, and if you agree to be interviewed, we would appreciate your signature.

A. I assume it's permissible to strike out this part, "voluntarily waive my rights?"

Q. You may strike that out. We want to make it clear, though, that you don't want an attorney with you at this time. Is that correct?

A. That is correct.

Q. OK. Fine. . . .

A. Do you want me to sign this now?

Q. Yes, if you would, please. . . . Thank you.

We will ask you a series of questions, and we want you to understand that there is no basis of accusation or innendo or prejudgment intended. It is only a means of eliciting information from all witnesses and of obtaining necessary background information to evaluate all the circumstances involved. For the record, would you please state your complete name?

A. My name is Edward A. Albares.

Q. And your address?

A. 8117 Gaylord Street, Annandale, Virginia.

Q. And what is the position you hold at the present time at the Federal Power Commission?

A. At the present time I'm section head of the production and supply section—gas supply.

Q. And that's in the Bureau of Natural Gas?

A. The Bureau of Natural Gas in the Division of System Operating Division (SOD).

Q. What was your position prior to that?

A. Prior to that I was with the Department of the Interior, Regional oil and gas representative for the Interior prior to coming to the FPC. I came to FPC as head of the gas supply section at that time.

Q. When did you come to the FPC?

A. 1966—October, I think it was.

Q. And you held the job in Interior for how long?

A. Approximately a year—in Battle Creek, Michigan.

Q. And where were you before that?

A. Prior to that, I was in a very short stay out in consulting and industry: prior to that, from 1960 to 1965, I was director of the Arkansas Gas Commission: prior to that I was Assistant Chief Engineer with the Louisiana Department of Conservation from 1949 through '60.

Q. And who were you consultant to, when you were in industry?

A. Petroleum Information—it's not an oil or gas company, it's a gatherer of petroleum information. I was assistant to the President of that organization for a short while.

Q. All right. Now, who is your superior in your present position?

A. Mr. Fred Cornelius is the present division chief.

Q. And above him would be Mr. Joyce, is that correct?

A. Yes.

Q. And Mr. Mangen, is he under your supervision?

A. Yes, Mr. Mangen is my assistant.

Q. I see. And how many other people do you supervise in your present capacity?

A. The staff. Mr. Bangert, is approximately 30, but with retirements and some transfers, I think it's 22 right now. I'd have to check to be more specific, but it's 22 or 23 people.

Q. Do you have any relatives working in or for or representing in any capacity the oil or gas industry?

A. Not to my knowledge.

Q. Have you ever received any honorariums, gratuities, transportation expenses, gifts of values, more than \$10 in value from the oil or gas companies or any officials or representatives thereof?

A. Not to my knowledge. At the state level there was always a limitation, the governor always prescribed at what level—I mean, he would accept something as a gift, I mean—it varies from state to state—like in Arkansas, it was \$25—the governor would always say, if you've got anything above \$25, I better know about it, or you better not take it in the beginning.

Q. Well, how about with the Federal Power Commission?

A. With the Federal Power Commission, no. Nothing with, no. I think it's very explicit there—the instructions are very explicit. Nothing whatsoever.

Q. OK. Have you had any discussions regarding future employment, even casual discussions with oil and gas representatives or officials?

A. Oh, some time back. Are you talking about the present?

Q. Since you've been with the Federal Power Commission?

A. No—there's been some discussion—I don't know how serious it was—I was not interested, so I did not pursue it.

Q. Could you just detail the tenor of the discussions?

A. Well, whether I was interested in outside employment, and of course I was not.

Q. Who did this offer come from, or the discussion, rather?

A. It came from one of the company representatives here in town. . . . I forgot.

Q. Do you recall if it was a producer company or a pipeline representative?

A. I think it was a pipeline company, as I recall. I don't recall who it was—this is what is bothering me—I don't know if maybe it was in jest or not. I didn't follow it up, so I don't know if somebody in idle conversation was making a jest or not.

Q. All right. Are you a member of the American Gas Association?

A. No.

Q. Do you have social intercourse with representatives of the oil or gas industry as opposed to business contacts?

A. Social?

Q. Well, do you play golf with members of the oil and gas industries?

A. I have, yes, in tournaments—FPC tournaments and things of this nature, yes.

Q. How often do you have social contacts with representatives of the oil and gas industry?

A. Very limited. The golf tournament is twice a year. I usually play in it once in the spring or the fall—usually I prefer the spring—ah, so beyond that—one additional comment: the AGA open house American Gas Association Open House this year in Arlington, I attended that.

Q. So you consider it a limited social contact?

A. Limited, yes.

Q. And not anything in terms of going out to dinner once a month with representatives of the oil and gas industry?

A. This is tabu with regard to our operation, and instructions have been put out to that effect, particularly in the light of the type work we do and the requirement that we visit company offices (?) to do some of this work, we have very stringent requirements.

Q. OK. . . . Have you discussed your appearance here with anyone prior to entering this room?

A. You mean, at the Commission?

Q. Yes.

A. Yes. I talked to Mr. Leo Forquer, our general counsel and asked him if I could take certain information over here. I talked to Mr. Webb Maxson concerning whether I should come—this is earlier, several weeks ago, when I was first called, because when I got back to town, I think the next day I got a call and I wasn't aware of what was going on—ah, I know who's been over here, on my staff, and things of this nature, but as far as discussion with them, no.

Q. In general, what I'm trying to get at is, have you had any discussion either about the questions that have been asked of other FPC staff members or have you had discussions with respect to the type of questions that may be asked and the answers that you may give?

A. No, I have not had.

Q. So, you would say that there's been no *substantive* discussion with anyone.

A. No. Like I say, I'm aware that they were here, and that there was some quizzing that went on, but they did not tell me what the quizzing was or the contents of it, and I did not want to know.

Q. Fine. . . . Now, you were requested to bring with you today all writings of any nature whatsoever, including diaries, logs, and records of conversations referring or relating to the use, disposition, of the documents involved in the alleged attempted destruction, and I'm wondering whether you have any documents to proffer.

A. Mr. Bangert, I brought some orders over and some memos. Most of that information had been turned over to Mr. Webb Maxson, our executive director in his investigation earlier, and it is my understanding that most of this has been turned over to your group.

Q. Well, just so that we can make a clear record of who has what and who has given us what, I would appreciate it if you'd proffer, for the record, the information that you have at this time.

A. With me?

Q. Yes.

A. I brought with me order document number AR-69-1, docket number R-405, dated November 4, 1970; also R-405 dated November 20, 1970; docket number R-405, dated September 12, 1972; and a copy of the testimony with regard to the AR-69-1. I have a memo here dated June 29 from the Chairman of the Com-

mission—our Commission, FPC; I have a part of a transcript of some of the testimony I've given before Senator Hart's Committee earlier this year. Do you want me to go through this, including what's in my briefcase? Some of this I wasn't intending on using.

Q. Well, what I want you to do is go through everything that you've brought to us in response to our request. You searched your files and produced these documents.

A. Right. Other than that, other than duplicates of those orders and memos, I have a copy of the transcript—of my transcript before the executive director of the Commission during his investigation.

Q. That was a copy of the transcript of the interview with you?

A. Yes. Mine—only mine.

Q. All right. If you could proffer those documents to me and let me take a look at them.

A. I was going to try and get into the background of these if I could. I don't know whether it would be helpful to you or not.

Q. So, now, what you've given me, then, as I understand it, is docket AR-69-1; three 405 dockets; and a memorandum from the chairman dated June 29. . . . OK, now, you indicated earlier that you thought that you had background . . . well, before we get into that, what documents did you give Mr. Maxson in response to his request?

A. They were not—I did not make a listing of them, but there were memos of them—I'm talking about Bureau-wide type memos; I gave him some orders, I'm talking about Commission orders, and background—no diary, I did not have a diary, and quite frankly—I tried to keep a diary, and it's very, very difficult in the business I'm in because of the diversified type work we do. To give you some idea, I found I would spend more time with the diary, trying to keep a diary—as an example, right now, we've got 92 in-house applications dealing with 92—and I feel like to do an adequate diary job, based on my experience, it takes about five minutes for a document, or per application to get all the facts down. I found myself spending roughly a day a week just trying to keep up with the diary. If you take five minutes for 92 documents, that's 452 mintues, and I guess roughly that's eight hours. So, and my work is so diversified, it's very, very difficult—I won't say it's impossible, nothing is impossible, I learned that a long time ago. I did not try and maintain a diary is what I'm trying to say.

Q. Well, did you get the Maxson documents that shed light upon the background with respect to the attempted destruction of these documents or the use and disposition of the documents?

A. Nothing was given to him with regard to disposition, I mean, there's nothing written or indicated in writing with regard to this. I was trying to give him the running history or the background behind this—this is why I was sticking to sort of what I brought here, the orders to try and show how this was developed over the years and what a task and a problem it was to get to the point where we are, is what area I was trying to get into.

Q. OK. Well, I guess I'll have to see from Mr. Maxson what documents you mean.

A. It was very little, Mr. Bangert, he received from me as far as information of that type. Most of it is of order and memo type.

Q. Well now, what type of inter-agency memoranda did you give him?

A. Inter-agency?

Q. I thought you indicated earlier that you gave him some inter-agency memoranda.

A. Oh, this was things that was circulated usually from the Bureau level down to us, when I referred to inter-agency.

Q. What subjects would that cover, for instance?

A. If I recall correctly, oh, a code of conduct we developed with regard to our survey teams, for example, what's required of the team, what's required of the companies involved in these studies. These were developed basically by us, but I mean, they were put in a memorandum form and circulated around to everyone so that they have the same understanding from the highest level. I think that's basically what . . .

Q. Well, for instance, what kind of code of conduct was there?

A. Well, we . . . because of the exposure as I indicated our guys had in the company offices, not with regard so much to this R-405, as it was to preceding studies, that we had to set up a code of conduct, so that the guys who went out in the field would know what we as an employer would expect of them and what

was required of them, and also from the company's viewpoint they had to know what we expected of them and what we required on their behalf.

Q. Well, what did you expect and require?

A. You mean, the contents of this memo?

Q. Yes.

A. For instance, that nothing was to be—well, let me start with the company first, and this is explained in the memo. That the company would provide space, usually within a conference room, which would be isolated, where the guy was to work individually, and provide the equipment that they need to utilize, like calculators, adding machines, polimeters (?), places to spread a map, and certain things like this. And have a person available who could give any information that the team leader would ask for. Now on the team leader's viewpoint, one thing that was very, very explicit, he was not to accept anything from the company, in fact, it proved very embarrassing sometimes when the company gives free coffee, but our guys were instructed not to take anything from the company, so they left a dime or fifteen cents, which they claimed fouled up their book-keeping, but that wasn't our concern, but under no condition were they to take lunch or anything like that from them. They were to do their job, if there were any problems, they were to report back to us with any difficulties, and we would resolve it here in Washington—things of a general nature like that, so the employee, when he went out, he knew what was expected of him, as I indicated.

Q. Was there any regulation regarding what items the employee could remove from the office of the company?

A. In various studies there were specific instructions as to what—as I indicated, there are several of these projects—not currently under way, but they were under way in the past. I'm thinking about the Natural Gas Survey, the unfamiliar reserve validation teams that went out and validated the uncommitted reserves in AR-69-1. In those, AR-69-1 they were told to analyze the data and leave the work—take their papers out but leave the company work papers or company data in the file, and take back just what they need to validate the statistics or reserve figures they were working on.

Q. Now, when they were in a company over night, I mean for a couple days, what would happen to the documents over night?

A. The documents? Usually, part of those instructions were to curtail your work hours to the office hours of the responding company. Usually they would go in roughly fifteen or twenty minutes after the office was open in the morning, and leave roughly about fifteen or twenty minutes before they closed in the evening. They were under instruction under no condition to work after hours in the company offices. The data that the company furnished us generally were locked up by their people overnight and then brought back the next day.

Q. And the work papers?

A. Our work papers? To my knowledge those were, in the case I'm thinking about, I'm almost sure we took them to the hotel each night. I couldn't swear to that.

Q. Were there any instructions either written or oral with respect to whether the companies had the right to search employees of Federal Power Commission before they left the building?

A. In one particular case, there was. That provision was provided if they wanted to see what the employee was carrying out, yes.

Q. And which case was that?

A. This was in AR-69-1. Also . . . let's see . . . and also in the National Gas Survey.

Q. Was there a number attached to the National Gas Survey?

A. You mean a specific order specifying the?

Q. Yes. What was that number, do you recall?

A. No, I don't, offhand . . .

Q. OK. What was the . . .

A. Wait, excuse me . . . maybe I do have something here . . . (rummages in briefcase) . . . I don't think I brought that order with me. It was one I intended to bring.

Q. OK.

A. Wait, excuse me . . . it's Order Directing Study and Analysis of Natural Gas Reserves Prescribing Procedure for the Natural Gas Survey, dated Dec. 21, 1971. It is a Commission order.

Q. OK. But, there's no docket number as such?

A. No.

Q. All right. Now, this instruction relative to the company's being able to examine employees before they left, was that a written instruction or an oral instruction?

A. Let me see, since I have the order, let me check it right quick. . . . It's not specifically an order, but it was in the Handbook of Instructions that went with the order, so to answer your question specifically, I think it was verbal *and* written, both.

Q. So there's a handbook?

A. Yes. Estimation of Natural Gas Reserves, that was used in conjunction with the National Gas Survey, which outlined the conditions I just mentioned to you.

Q. Where is that handbook now, do you know?

A. We have copies of it at the office. I think it is available if you would like a copy.

Q. Yes. I would like a copy. . . . So there was some written communication in the National Gas Survey with respect to searching employees. Now how about AR-69-1? Do you recall on that one?

A. As I recall . . . I was looking through here as well as the earlier order. There was some instruction verbal and written with regard to those.

Q. I wonder if you could try to determine whether there is anything in writing on AR-69-1, and if so, furnish that to us also?

A. Furnish it to you later? Sure.

Q. Now, earlier you indicated that you brought this material with us to furnish background so you could give an explanation that would be helpful to us, and I wonder if maybe the best way to go about this would be for you to first of all give that explanation, and then we will ask questions afterward.

A. I think this would be an excellent approach.

Q. Fine.

A. I think you need to start with AR-69-1. This again, is the first time—this is dated March 17, 1970, this is the package you just had, I handed it to you—Now, this was in a South Louisiana area rate proceeding which we the staff went before the examiner and said—as well as some of the respondents, I might add—AR-69-1 should be right on top . . .

Q. Yes, sir. I have it here.

A. indicated that we needed some idea how much uncommitted reserves were available in the off-shore area and South Louisiana area of Louisiana in order to complete our testimony, to make it complete, so the Examiner as well as the Commission would have a complete record of what was available. In the past this has always been a point of contention from staff. We would like to have had it—also I know some of the respondents had indicated—as news release indicated—that there were—or there may have been some hiding of gas reserves. We recommended from the staff viewpoint to the examiner as indicated that this should be made an issue in the particular proceeding. It was very, very important as South Louisiana is one of the major producing areas and will be in the future with regard to the particular off-shore area. So this—what I'm trying to—this was a pioneer order in that area, and this was the first time that the Commission, even though we recommended it in the past, we never could get off first base with it. So, needless to say, we were pretty well pleased, and we thought this was a step in the right direction. From then, once as we've indicated, once we got the ball rolling, we felt like we had our foot in the door and we should expand this, so on November 4, which is the first docket done, R-405, which is after AR-69-1, the Commission from a staff viewpoint was approached about doing this, not only for South Louisiana, but this would be an excellent tool, not only for evaluating our regulations, but determining whether we were going in the right direction if we had this nationwide—not only if we had this for South Louisiana, but if we had it for the whole United States, all the states, not just for that one area.

If you look at that order 405 data—look at under the "4"—and I can't tell you how much discussion—there was quite a bit of discussion at staff—and at commission meetings on this particular matter—but anyway, on a three-to-two count, Order 405, "A Policy Statement with regard to Notice of Investigation Proposal Made with respect to developing an emergency plan," was—and of course the general title is "Reliability of Electric and Gas Service" developed. But, in bringing forth that order, Mr. Bangert, I think it's only fair to look in the back of that order and you'll see that there are two Commissioners who dissented. What I'm trying to say is, this is not the easiest thing from the staff viewpoint always to get done, even though it's the right thing, and we would like to have more data, we got certain procedures we got to go through and

always, we've got to get Commission approval. The first one, if you notice, is Commissioner Carver dissented, and he complained about a jurisdictional limitation basically, I think; and Commissioner Brook dissented, and if you look on page two and three of his dissent, you'll see that he says we made no attempt to define rudimentary (?) criteria and standards (?) and that he feels that we're not within our right in requesting—you see, this is a pioneer, is what I'm trying to say, this is—we spaded new ground here and so the Commissioner was a little bit concerned about the vagueness of it, as an example, so—and they cite this in the dissenting opinion about their concern about some of the vagueness and of course this is a new concept, so they're concerned there.

Now, from that, November 4, 1970, decision, on November 20, Mr. James Tourtellotte, who was designated investigating officer for the first rule-making 405, issued his letter order, which is attached there, and you have it in sight in which, if you look at the contents of it, and particularly on page three, you might hold that in suspense right there for just a minute—you find out that the instruction with regard to confidentiality is all on page three, which I outlined green on your copy—I don't want to get into detail on that now, but I'm just trying to show you the history as this is being developed.

Q. Is that paragraph you're talking about is the first paragraph on page three saying, "The individual company information received at this investigation will be kept in a confidential status by the investigating officer in accordance with provisions of section 8B of the Natural Gas Act?"

A. Right, sir. Thank you. . . . I will refer there, but I want to refer to that language specifically, too.

Q. OK.

A. Now, in that particular case, we went to various places in—I should rephrase this—Mr. Tourtellotte and Mr. Williams and the other gentleman who was involved in this study went to various places, in particular, Houston and New Orleans, Louisiana—Houston, Texas—companies brought this data in to them, they copied what they wanted off the sheets, the company data was immediately returned to the companies, and they posted on their worksheet what data they extracted from the companies. Now, on September 12, 1972, which is the next order in here, here we have an updating—and it's so stated right here: "Order Updating Nationwide Investigation," dated September 12, 1972, which here again, referring to page two, and I think I may have outlined in green, if you look at the wording from page three of the preceding order dated November 20, 1970, to page two of September 12, 1972, order, you see, beginning again at the individual company: "Information received as a result of this continuous investigation will be maintained in confidential status in accordance with the provisions of Section 8B of the Natural Gas Act, Section 15, U.S. Code, 717G, paragraph B, and Freedom of Information Act."

Now, if you read, recognizing that we've taken one sentence out of context in one order and one out of another, recognizing it as such, you see that the wording there is identical, other than the word "maintain" and "kept" and the words, if you look it up in the dictionary, or the last time I did—thank you—they were synonymous to me, I mean, they mean the same thing. Any exceptions in the September 12, 1972 order, were so stated, as on the bottom of page two again, after this confidentiality bit, it also states: "It should be noted that, unlike the previous filing, all responses will remain at the Federal Power Commission in Washington." Here the exceptions are noted as to what's different between this order and the previous order. This, of course, is where the hangup is at, and what we—the basis of all this is—but what I'm trying to say is that, looking at one order—indsight is always 20/20, but looking at the original order, and looking at this order, they are basically word for word the same except for "maintain" and "kept" in that particular part which is on confidentiality. Here the company's mail are brought into the office in Washington, their work papers—ah, not their—yeah, well, their papers.

Q. In the AR?

A. September 12, 1972.

Q. OK.

A. The latest one . . . So, what I'm trying to say here, that, here we operate one way on the original order, and all of a sudden we get zapped—so to speak—for operating on the—a little different way on the second order, with no further instructions, and I might add, all through the discussion of this order—or implementation of this order—when we would have our own meetings among staff—I'm talking about BNG staff, Bureau Chief, and our division chief—the question, and I raised the question several times, "Are we to do this the same

way it was done previously?" The instruction I always got was, "We do it exactly like we did it before," with the exception we *got* here, as noted in the order itself, so I'd be the first to agree, and I think some of this ambiguous language in here is not specific and what not but the intent was, or what Mr. Mangen was trying to do was follow the second order just exactly like the order was done.

Q. Well, what's your interpretation of "will be kept in a *confidential* status," and "will be maintained in a *confidential* status,"—what does that mean to you?

A. I think they're both synonymous, I think the only thing we kept in the first order was our work sheets and the data that the company was submitted was given back to them, and the second order, they mailed it in or carried it in, we made up our work sheet and we were in the process of either, as I think, one company requested their work papers *back*—Exxon, as I recall—Texaco sent a letter along with their information indicating they wanted it destroyed after, which was the interpretation I think most everyone had as to what happened to the papers in the first R-405.

Q. All right, well, let's go into the first R-405. Now, you indicated that the information which was supplied by the company to the Federal Power Commission was returned to the companies.

A. Right. As soon as the papers were copied—in other words, between ten and fifteen minutes—they were returned to the companies, yes.

Q. Now, in R-405 original as I understand, please correct me if I'm wrong. A. 1970.

Q. Right. . . . What happened there was employees of the Federal Power Commission went out and they copied certain information from the company's records onto a work sheet and at that time, then, the work sheet was maintained by the Federal Power Commission.

A. The FPC worksheet, yes.

Q. And the company documents were returned to the company?

A. Yes.

Q. Now . . . was there an instance in R-405 original where the Federal Power Commission employee would phone in results from the field to another staff at the Federal Power Commission?

A. I'm not aware of any. Mr. Bangert, but it could have occurred, since this was under the direction of Mr. Williams and Mr. Tourtellotte, who is in the office of general counsel. I think the normal chain of command if he did have a question, would be to the general counsel, rather than to the BNG staff. I think that would be the normal chain of command.

Q. OK. But at any rate, there were R-405 worksheets—in the original R-405 there were worksheets made up?

A. Yes, sir, by the examining officer, either Mr. Tourtellotte or Mr. Williams.

Q. And.

A. Those were carried back to the Commission.

Q. Now, did those work sheets contain the companies' names?

A. I really can't say. Mr. Bangert, because I did not look at it. It was to be treated confidentially, and the less people that looked at it, the safer generally it would be. I can't say for sure.

Q. So you did not see at all?

A. The first papers? No.

Q. The first papers?

A. I saw the results of them, but not the work papers.

Q. And the results that you saw were *aggregated* results?

A. Right. And as published.

Q. As published. But you at no time saw the individual work sheets?

A. Not that I can recall.

Q. Of the individual companies. OK. So, in the first instance, then, work sheets were made at the company offices and the company, in turn, received back their documents?

A. Right. They carried them in and carried them right out when they left the office, yes. I might add, I think this was done generally, I'm not sure in every instance, but it was done in a federal building in the city to which the investigating officer performed his task . . . I might add, if I'm not interrupting your chain of thought.

Q. No. Go ahead.

A. Not only in *our* bureau, I might mention, Mr. Bangert, but I'm sure you're aware that we got auditors out, we were involved constantly—I say "we," now. I'm speaking of BNG as gas supply people to some extent, but Bureau wide—

we had *rate* people who were doing this kind of work constantly, I'm talking about going out and looking at ledgers, extracting information from the companies' books and bringing them back. We have field auditors on the road 100% of the time traveling completely, who do this—our economists do this, and our legal people—Mr. Tourtellotte, in this case, is an example. We found that due to the voluminous amount of material to look at, I don't know *how*—I'm sure we *could*—I may be exaggerating this—but it would be a tremendous task to *house* everything we look at, because you look at so many things, not only in our type investigation, but in *rate* filings and other type of filings we have going on continually in the regulatory field. In other words, if we have a rate hearing, our *rate* people go out and look at the company books, which are all confidential. And they extract what they want, but they leave the books there and take the work sheets back, and use them in normal Commission activities—some of it's confidential and some of it's not—in the composite form, very little of it is confidential. Well, what I'm trying to say is this is the context in which the whole Commission operates, it's just not our section is operating any different from any of the others.

Q. Do you know who it was in the Bureau of Natural Gas who did the work on R-405 original?

A. . . . There was someone in the Bureau of Natural Gas who had been looking at Statistics, but it was Mr. Tourtellotte and Mr. Williams' responsibility, but I do know someone looked at, but I don't recall who it was.

Q. So in R-405 original, Tourtellotte and Williams went out in the field and gathered information.

A. Right. And Mr. Brady, I think. But I think Mr. Williams and Mr. Tourtellotte, from my own recollection, did most of it.

Q. OK. And then they presumably, then, at some time, turned those work papers over to someone in the Bureau of Natural Gas, is that right?

A. No, I don't think so. They maintained those themselves, Mr. Bangert.

Q. Well, Tourtellotte, during his questioning, indicated that he and Mr. Williams gave that information to Mr. Mangen, to do some work with. Does that ring a bell, does that refresh your memory at all?

A. No, it doesn't mine—it could have occurred and I wouldn't necessarily have to know about it, also I might add. . . . Did he state the reason why, Mr. Bangert? Was there some discrepancy?

Q. It seems to me that, as I recall his testimony, and I may be wrong, he indicated that they gave it to the Bureau of Natural Gas, I thought, to make the aggregates.

A. This could very well be, and I wouldn't be aware of it, but I would think if Mr. Mangen was given that responsibility, I would know about it. It could be *others* in the Bureau of Natural Gas—as you know, there are approximately 250–300 people there, in the Bureau, I'm talking about—*others* could have been working on it and I wouldn't be aware of it, I mean, another division, or another area which I wasn't familiar with, and the feedback wouldn't normally come through me.

Q. OK, now. Back to R-405 original for just a minute . . . you indicated something to the effect that in preparing R-405 and in determining how you were going to do it and what you were going to do, there were many discussions, both staff and commission on this matter.

A. Yes—as to the *need*.

Q. Now, how about as to the actual method in which the task would be completed, whose decision was that?

A. In the original 405?

Q. In the original, yes sir.

A. Here again, I'm calling on memory. I think it was generally left up to the investigating officer, but I'm not positive of that.

Q. & A. And that would have been Tourtellotte, Williams, and Brady, right. (In chorus.)

Q. Were people from the Natural Gas Bureau in on those discussions, do you recall?

A. I think they were—who they were I don't recall.

Q. Were *you* in on those discussions?

A. I think I was—ah—oh, at several points, I don't remember the dates, or anything like that, but I can remember when Mr. Williams, particularly coming by several times and mentioning something about it, yes.

Q. Well, I would assume that as far as the information to be obtained, the lawyers in the general counsel's office probably would have gone to the Bureau of Natural Gas.

A. It would be a logical conclusion, I think, yes.

Q. Because you were the people who had the expertise.

A. Right. Yes.

Q. Since I, as a lawyer, don't know anything about this.

A. I think that would be a normal conclusion, Mr. Bangert, to come to the Bureau of Natural Gas for assistance in this, yes, it would.

Q. So, to the best of your knowledge helped make up (?) (input?).

A. Some influence, sure.

Q. The questionnaire that would be asked.

A. As we developed this—in fact, as we're talking here, I can recall now, as we get into it—I think one of the new things that John Williams was looking for was a new criteria, a breakout, of areas and how to define the areas, and we had several of the area rate proceedings pending at that time, and as I recall, he wanted to coordinate it with areas whose boundaries would be the same—in fact, I think . . . AGA boundaries were used as some input, as well as area rate proceedings, Mr. Bangert . . . some of this, it seems like 1970's not too far back, but in this rate business, I mean in this regulatory business, so much goes on constantly.

Q. Sure, I do understand that, and if I keep asking you questions, it's only to try to do as much as I can to help you refresh your recollection.

A. Thanks very much. I appreciate your being this patient with me.

Q. No problem. . . .

A. We too have got a role of seeking the truth. A lot of people don't believe this (laughs).

Q. Oh, sure, I understand that. And then, in R-405 updated, in that case staff did not go out to the individual companies, is that right?

A. That is correct.

Q. But a questionnaire was developed and the companies were asked to submit that information to the Federal Power Commission, is that right?

A. That is correct, in the same format as the previous order.

Q. Now, do I understand that the information received in R-405 updated was the same information that was originally received in R-405?

A. The complete original states the boundaries and what not were the same—the same, exactly the same format, was used, to my knowledge.

Q. What was the difference? if you recall?

A. The difference was—the major difference was, in between the two, was that instead of going out and getting the information, they would bring it in to Washington, mail it in.

Q. Why did you decide to do an update?

A. We think it was necessary, first of all, to see if some of the Commission's policies were having an impact. There were several uses for this uncommitted reserve data. Of course, it was very obvious one, if the reserves are being held off the market, there must be a reason for it. Is it Commission policy, is it price, or what is it, and once you get the figure, you can start and seeing where it's located, from there you can have some input as to what kind of problems you encounter, and so it's a regulatory tool, I guess is what I'm trying to say, for implementing policy and determining whether you're on the right course or not. And if you can do it, for an example, on a yearly basis, you have some indication—say, citing again another example, say, on the first 405 order as Mr. Tourtellotte and Williams had, you had, say, a trillion cubic feet of uncommitted reserves, and in the newer one, say we ended up with five trillion, as an example. Well, that tells us there's something gone wrong. It should contain about the same or relatively about the same. If they're holding off a lot of gas off the market there's something wrong, either they're waiting on a better price, or some other stipulation, they're saving the gas for their own use in their plants, and so on—I'm talking about their refineries—that's producers I'm talking about—or maybe they got some other use for the gas we don't know about—this'll give you another insight a little deeper into this matter.

So I think it's a most valuable tool, and as I indicated, we tried for years, to do this—many, many years ago, and this is why we felt so good when we sort of stuck our neck out in AR-69-1 in the beginning of 1970, we thought we were going to get clobbered by everyone, and everybody was a little bit skittish and reluctant to say too much about it, but we went on and did our

job in a professional manner, and the results, the feedback I got was good, and we did some spot checking of our own and the guys performed real well, our professional staff, in fact, from there on to the period we're talking about here, I've been real pleased from a professional viewpoint, particularly since so many on our side look down their nose at government, but they don't have capable people, that I've had many requests to conduct schools, that personnel like to come to, so I think this is a feather in our cap as professionalism, I'm talking about doing a job, or trying to do a job, in a professional manner, and this is what basically we are here for. All the other stuff is rhetoric I mean, the Commission needs to depend on us, our expertise, in the particular field we operate in. When going beyond that, we're not getting into a Never-never land, but we're getting beyond our expertise.

Q. Now, in R-405, update, Mr. Mangen was appointed as

A. Designated, yes

Q. Now, why, if you know, was it changed? Why, in the original did the lawyers from the general counsel's office handle it, and then in the update, it was given to the BNG?

A. There was some discussion of this, and here again, I can't tie it down to the exact date, but it had gotten Mr. Bangert to, I guess, more routine, now, and this question about having an investigative officer from OGC, office of the general counsel, was raised, and since they were going to use the same format, the same data sheets, as originally, that—here I'm assuming a lot, but mostly it was going to be a regular, routine thing with no complications whatsoever, it was going to be a matter of totaling up numbers received and add a memo like we did before and release it to the public. So, I guess, in a selfish viewpoint, I guess it would develop into a real routine matter. We didn't expect any real flak from anybody, since we'd been through two of these—R-405 and AR-69-1, and everything had been on a very professional level, and I'm sure if something had been wrong, the Chairman would have gotten the feedback, some of the Commissioners would have gotten some feedback, and we in turn, would have heard something about it because we have real good liaison in that direction, I'm talking about, as far as, when something goes wrong, anyway, we find out about it very quickly.

Q. Now were you the supervisor—did you supervise Mr. Mangen in the collection of data in R-405 update?

A. No. Not in the truest sense. He's assigned to me, he's my assistant, and I'm administratively responsible for him. This assignment was given by the bureau chief directly to him, it was not given to me—I don't recall the exact date, but here again—if I'm not mistaken, maybe I was out of town, or maybe I would have gotten it—I'm not sure of the implications. Mr. Tom Joyce could tell you more on that.

Q. Well, did you give him any assistance, Mr. Mangen, that is, in R-405 update?

A. All the manpower assistance would come through me, yes.

Q. And you assigned other people to work on it?

A. Yes. Miss Joyce Powell, Mr. Povetto are the two ones I can recall. I did not assign a specific number to him. I instructed him to let me know when he needed some people and we would pull whoever was available and they would assist him.

Q. Did Mr. Zabel work on R-405 update?

A. He could have, but I'm not aware of it—I didn't assign him to it. But if I was gone or something, Mr. Mangen could easily talk to him and I would not be aware of it. As I indicated to you, there's a number of projects we've got going on constantly. I'm trying to be in too many places at one time sometimes.

Q. OK. Now, when did all of the information come in in R-405 update?

A. Update? I think the order specified the date they were to be received, but all was not received as of that particular date, I do recall that. October 6, but it was after that date that some of the responses hadn't been received. Well into November and December, possible.

Q. So that by the end of 1972, all of the information would have been in, is that right?

A. I think so, with possibly one or two exceptions—I remember he mentioned something about he was having trouble reaching one or two people and hadn't received their report, and there was some lost in the mail—one lost in the mail, I think it was, but the party they contacted said they were going to send up a second copy.

Q. Now, did the companies mail this information in or bring it in, or how was this handled?

A. It's kind of a combination. Some mailed it in, some brought it in, and it sort of depends on individual company management and attitudes. Personally, I think some companies don't give a damn who knows about it, and others are very secretive about it. It sort of depends on what's going on in the areas where they are located. If it's like an off-shore area, there may be some offset acreage that has not been leased, as an example, so this would be very, very critical to the company's operation. I mean, releasing this information to the public or to anybody without proper safeguards. It sort of exposes themselves as to what potentially could be there.

Q. Did you have conversations with any of the representatives of the companies who either brought the information in or mailed it in?

A. No, I did not. Those instructions were pretty explicit because of the confidentiality. Several of them came by my office and mentioned to me about it, and I told them the person to talk about and to give it to was Mr. Mangen. He was designated in the order as the person responsible.

Q. Well, did you talk to any of them with respect to the confidentiality of the material? I mean, the representatives of the companies? (tape changes)

A. As to the information itself that was in the reports?

Q. As to the reports themselves that they submitted to you.

A. I'm not sure I follow you. . . . I was aware they were bringing in confidential reports, but I did not look at them, if that's—well—

Q. But, did you have any conversations with them as to what would be done with this information, how it would be treated, whether or not it would be confidential?

A. Oh, I'm sure if I talked to them about it, I indicated it would be confidential. I don't have any specific citations, but—

Q. Well, specifically, do you recall the conversation in your office at which Mr. Mangen was present, at which there were one or more representatives of the oil companies there, where the subject of confidentiality was discussed?

A. . . . I don't recall specifically, but there were several meetings, not necessarily in my office—excuse me, let me backtrack, it could have been in my office, I don't recall any specific meeting, let me put it that way, but I'm sure there was—I am sure there would have had to be some—I don't recall the dates.

Q. Well, do you ever recall assuring representatives of the companies that this material would be either returned to them or destroyed after you had done with using it?

A. I don't think I said it in those terms. I think I said it would be treated in confidentiality in accordance with the order and as previously done.

Q. Did you ever tell them that it would be returned to them?

A. I don't think I told them, but that was implied, I think, all throughout, that the same proceedings would be followed in the new order as in the old, of 1970.

Q. Did you ever specifically tell them that it would be destroyed?

A. To the company representatives? I don't recall.

Q. Did you ever hear anyone else telling the company representatives that the material would be destroyed?

A. I don't recall. It may have been and I didn't put too much significance into it at the time, but I don't recall.

Q. Do you recall anyone else telling the company representatives that it would be returned to them?

A. I think—I'm trying to differentiate between the conversation between Mr. Mangen and I and separate this from what you're asking me. This is what I'm not clear on. I'm not trying to hedge on you, but I don't recall, but here again, I'm speaking from memory.

Q. OK.

A. The problem was, Mr. Bangert, we were trying to keep the number of people who would be exposed to this information down to a bare minimum. We found this to be one of the safest ways to maintain the confidentiality. The more people that handle the data, the more exposure it has along the line, so this is why we're trying to keep it to a minimum.

Q. Well, did you have conversations with Mr. Mangen relative to the confidentiality of this material?

A. Yes. We had some discussions.

Q. Well, could you give me the tenor of those discussions?

A. Well, I think, well, I know we discussed where the papers should be kept.

Q. Now, this would be when, back in November or October?

A. Then, or possibly later.

Q. What decision did you arrive at?

A. We discussed where would be a safe place to keep this, in compliance with the confidentiality. And I think that at one point or other, I recommended that we keep it in a large safe within our administrative office at the time, and I think this was done at the time.

Q. Did you have conversation with Mr. Mangen relative to destruction of these documents?

A. He talked to me about it, oh, I would say, on several occasions, I would say, two in particular where this came up, yes.

Q. And what was the tenor of that conversation?

A. I think he was trying to—let me back up a little bit—at the time we were in the process of moving, he was trying to protect the confidentiality of the papers, and he indicated to me that maybe this would be a good time to do something with the papers, and he indicated to me that maybe this would be a good time to do something with the papers we'd been having to carry around because of security provision. And as I recall, he mentioned it to me, and I suggested at the time, I suggested two things, as I recall, I suggested one thing, that if he was intent on doing this, we had a security officer now, who was responsible for handling confidential records and the destruction thereof, a Mr. Vivian. The second thing as I recall is that he should check, before doing anything with the bureau chief, so that he would be aware of what was going on, with regard to these records.

Q. Do you place this about the time when you were moving offices, is that right?

A. There were several discussions. I remember it was earlier when we were in the old building before we moved. The date I can't tie down, I'm sorry, but it came up for discussion again.

Q. And you advised him that there was a security officer who was responsible for any document's destruction?

A. Yes. One of the things that sort of prompted, or did prompt it, in AR-69-1, which was the area rate proceeding in South Louisiana where reserve data was collected and this made a matter of record, I witnessed the burning of *our* work papers, I'm talking about, in the trash basket in the old building. At that time, we did not have a security officer, or if we did, I wasn't aware of it. He indicated to me I think it was, Mr. Mangen, I'm referring to, that he wanted to do something similar to these, and I indicated that if he wanted to do that, then Mr. Vivian would be the logical one to see about it, he was our security officer, but by all means check with the bureau chief who he was working for directly under this project. But, like I say, it came up several times for discussion, and this is one reason why I mentioned earlier that every time this came up at the general meeting in BNG, this was always mentioned about, shall we do it the same way we did it before.

Q. Now, in AR-69-1, those work papers were burned in the waste basket?

A. That is correct, yes.

Q. How did you arrive at the decision to burn those work papers?

A. I think the order said there would be either—or the impli . . . wait a minute, let me back . . . I'm not sure whether the examiner in the case or the general counsel instructed, . . . excuse me, I'm a little hazy on where the direction came from . . . but it was made a part of the hearing, it was so stated in the hearing in the transcript and the testimony of Mr. Mangen and Zabel, if I'm not mistaken, in AR-69-1 as a matter of record, is what I'm trying to say.

Q. What was stated in the records?

A. That the records were destroyed—that confidential records were destroyed, I think—I may be quoting out of context. . . . (leafs through pages) . . . No, this is Mr. Zabel, and he says, now this is with reference to AR-69-1, "After completing the auditing," now, this is the question, "After completing the auditing, did the staff auditing team retain its notes and calculations?"

"The notes and calculations were either left with the company or destroyed in the presence of the company representative." Now, I don't have Mr. Morgan's testimony, but he put something into the record also with regard to the composite, the information that was composed in this.

Q. Can I see that transcript you're reading from? . . . "Notes and calculations were either left with the company or destroyed in the presence of the company representatives." I guess what I'm wondering, is, if the notes and calculations were left or destroyed, how did the Power Commission get this information?

A. How did it transmit from the teams to Washington? . . . I would have to refer to the transcript of the hearings to answer you specifically there.

Q. I wonder if you might be able to check that out when you get back and let us know? . . . (writes)

A. I suspect it was called, but I'm not sure. I'd have to double-check on that.

Q. OK. And then, you say that apparently some of the work papers got to Washington and that you witnessed those being burned in the waste basket?

A. No, not the work papers. It's the composite of those work papers.

Q. Composite, I see.

A. Here in AR-69-1, we put in a composite with regard to uncommitted reserves in off-shore as well as on-shore in South Louisiana, and this was done in the composite form to protect the individual company—here again, companies were not listed, but it was put in a composite form.

Q. If you could, if you could also see if you could find the Mangen testimony in this regard, we'd appreciate that.

Now, who was present when you witnessed the papers being burned in the waste basket?

A. For AR-61-1?

Q. For AR-69-1.

A. Mr. Mangen and myself. If there was someone else there, I was not aware of it. This was done in the GAO building.

Q. Again, to refresh your recollection, see if you can determine just how you and Mr. Mangen came to the conclusion that this was the thing to do.

A. Again, I'm a little bit fuzzy, but I remember we had many conferences. As I've indicated to you, this was a pioneer effort to try and gain this information. We would utilizing our data, and we needed that uncommitted reserve data to make the testimony complete . . . so I'm sure, somewhere in the discussion with our attorney in that proceeding, who was Mr. Mattingly . . . there must have been some promise to the companies that these papers would be destroyed . . . but here again, I'm quoting from memory and I'm not sure of this . . . because I'm sure just on our own, we would not go out and destroy papers.

Q. Well, I wonder if you could see if you can determine exactly what the basis was for that decision, namely, to burn those papers?

A. . . .

Q. Now, OK, so, you indicated, with respect to R-405 update, you and Mr. Mangen talked about the fact that Mr. Vivian as security officer was one who would take care of this, and Mr. Mangen should check with Mr. Joyce, and then deliver them to Mr. Vivian.

A. If that was so instructed, that's correct.

Q. Now, did Mr. Mangen check with Mr. Joyce, do you know?

A. I'm not sure. I think he made an attempt. I'm not sure whether he did or not. . . . I do recall he was very difficult to get in touch with at that particular time, and I don't mean anything personally (?) It was just a real busy time of scheduling.

Q. Well, did you ever talk to Mr. Joyce about it—back at that time?

A. No, I don't recall. But, as I indicated earlier, several times I harped on this, we'll do it the same way it was done previously, and . . . I guess to that extent, if you could say did I talk to him about it, you would say yes.

Q. Well now, in the original 405, you didn't have any company documents and you had work papers and you had composites, right?

A. We had our own work papers.

Q. Your own work papers?

A. Right.

Q. Now, were those destroyed to your knowledge?

A. To be quite frank, I read the chairman's testimony—I was under the impression that they were—I contacted prior to Mr. Williams' leaving and becoming administrative judge for this other agency, I asked him what happened to the work papers, because, knowing what we planned to do in the future, it might be handy to have these available or at least take a look at them, if somebody wanted to take a look at the older ones, and I don't know if he just told me in jest or not, but he said they did not exist anymore. Now he did not tell me they were not destroyed, he didn't tell me they were destroyed, and I did not witness any destroying of them. I was just . . . I was down in his office area seeing Mr. Wakefield, and he and Mr. Wakefield were in the same reception area, so when I saw John, I asked him about where were the work papers, and this is what I got back from him.

Q. That they had been destroyed?

A. Or that they did not exist is, I think, the words he used—I'm not sure he said "destroyed"—they don't exist anymore. I'm not sure of the exact words. From that I assumed they had been disposed of, I don't know how or when.

Q. He didn't say they'd been locked in a safe in the administrator's office?

A. Not to me, no, he did not. Like I said, this would have been just—I didn't go down there particularly to see him, I was coming out of Mr. Wakefield's office, and John's office is right in the entrance way as I was coming out, and I mentioned something about that to him.

Q. Do you remember when that conversation might have been?

A. It was some time before he left, right before he left the Commission.

Q. And he's been gone a year and a half?

A. Oh, yes. About a year at least, I'd say. . . . I remember now, another thing, is that someone down at the BNG wanted to do some additional work with regard to these papers as I recall, and I think this might have stimulated my question.

Q. Well, do you recall the time when there was discussion with respect to the original 405 that there were some errors in it, and at that time?

A. As I recall, there was something out of tilt with it. I don't remember what it was, now. I don't know if it was a compilation, or what it was.

Q. Well, do you remember who may have done the work to determine where the errors were?

A. It could have been Mr. Mangen again, I'm not sure about that—I'm hesitating because I'm not sure. As we're talking, I think you're doing a real fine job of refreshing my memory—I think now, as I try and think this thing through from the beginning to the time you're referring to, I think there was some figure, as I recall, from talking to Mr. Joyce, that stuck out, that was obviously, that appeared to be wrong, or something like that, now, and . . . he indicated they were going to be checked, as I recall.

Q. And this was R-405 original?

A. Original, yes. There was something that did not fit in a pattern—now exactly what that was, I don't recall, whether it was too large of a figure, or no figure—I think it was too large of a figure, because no figure would not be suspicious, but if it was too large of a figure, it would be suspicious, or—it wouldn't necessarily be suspicious, but it would indicate that it would take some further looking in that area to determine whether something was out of tilt. Maybe, now . . . Mr. Mangen could have been the one that checked on that, here again . . . I may not be aware of it.

Q. Well, Mangen as I understand it, did work on AR-69-1, and R-405 original and then R-405.

A. Yes.

Q. Now do you recall at all a meeting where the executive director, Mr. Maxson and Mr. Joyce and Mr. Mangen were present, and when Mr. Joyce told Mangen to "keep these papers in R-405 update"?

A. Do you have a date or undate or anything on that?

Q. No, I do not. Probably early this year.

A. I don't think I was. . . . Mr. Maxson very seldom gets involved in bureau operations.

Q. That's what I was going to say—it might stick out because I would assume that he doesn't—

A. Very seldom, unless we do something wrong—maybe I'm being a little facetious there—do we see Mr. Maxson. I don't recall, Mr. Bangert, such a meeting. If you had a more—time period—we were to confine—

Q. Well, do you suppose back in September, '72, when you first began—

A. Oh, I don't recall it, no. I don't think so because I don't remember seeing—I don't recall seeing Mr. Maxson around that period of time, no.

Q. And do you recall any meeting this year prior to when this thing first appeared in the newspaper, at which Mr. Maxson and Mr. Joyce and Mr. Mangen were present?

A. Not to my knowledge, no. . . . Now, Mr. Joyce and Mr. Mangen, that's not an unusual combination, but for Mr. Maxson to be in it, that's a little different animal. Such a meeting could exist and I wouldn't be there and wouldn't even be aware of it, Mr. Bangert, but to my knowledge, I was not present.

Q. Well, do you remember *any* meeting that Mr. Mangen had with Mr. Joyce wherein Mr. Joyce told him to maintain the papers in R-405 update?

A. Well, other than what I've already told you—I'm the one that brought it up several times in meetings, in earlier meetings.

Q. And at that time, you didn't tell them to *maintain* the papers?

A. No, all we was told, as I get back and look at this thing in retrospect, I mean, hindsight—there's a communication problem, I'm talking about within BNG, but, I know several times, as I indicated, through the development of this, as well as after it was underway, I'm almost sure, I'm almost positive, I can't say the date, this was brought up, do we do this in exactly the same way, and he kept saying yes, this is an update and we do it the same way as we've done previously.

Q. Now, what did you first become aware that Mr. Mangen had delivered the papers to the security officer of destruction?

A. I don't know the exact date, I keep trying to dig it out of my mind, some time give or take a few weeks, in or around April 1. I don't know what date it was. Like I said, earlier than that he talked to me about it and told me what he was planning on doing, and I instructed him, or talked to him and told him that if he were going to do something of this nature, he'd better talk to Mr. Vivian because he was our security officer, but by all means, check with Mr. Joyce, because Mr. Joyce—this was a special project assigned to Mr. Mangen, and here again, off the record, or maybe we better leave that on the record—I'm sure they were developing some openings, for Grade 15's as an example I'm talking about, in BNG, and I'm sure Mr. Joyce was trying to give Mr. Mangen maximum exposure, so—cause he is an excellent employer—er, employee, and I would love to have him on my team any time. I think he is a very honest and sincere person, hard worker.

Q. So it was around April 1 that Mr. Mangen told you that he had delivered—

A. Somewhere, yes.

Q. Now, can you remember the tenor of that conversation?

A. My conversation with him?

Q. Yes, sir.

A. He asked me, as I indicated earlier, about whether I would witness it, or something to that effect, and I told him we had a security officer, Mr. Vivian, who would take care of security matters, now, if that's the route he wanted to go, but as I indicated that, he should by all means, I couldn't reprimand—I mean, remand, a bureau chief's directives, I'm talking about a section head, so I suggested to him that he check with Mr. Joyce first on this before doing anything. Now whether he did or not, I really don't know.

Q. And then around April 1, he came and told you that he *had* delivered them?

A. He had delivered them, yes.

Q. Did you assume at that time that he had checked with Mr. Joyce?

A. I would have to assume he had, yes. . . . I also told him, I think, as I recall, Mr. Bangert, that there was a procedure for—a specific procedure, because at the time, I remember, I had just—oh, several weeks earlier there—about five or six weeks earlier, had just come off of a military tour over at the Pentagon, in which I can recall that they had had some security problems or the like for lack of a better word, and I can remember elaborating that they have a definite procedure that everyone must go through now with regard to destruction of records, because I remember we had to do certain things every night before we went—at home, I mean I'm talking about with regard to military operations. I think Mr. Vivian is an ex-military man, as I recall.

Q. So that that conversation where he told you they had been destroyed took place on April 1, then his previous conversations with respect to the fact that he *was* going to destroy them, took place some time before April 1? Is that right?

A. It would have to. Sure.

Q. All right. Now, did Mr. Mangen at all indicate that it was troublesome having these documents around and that's why he was going to get rid of them?

A. Yes, he didn't want them to leak out. Sure, he did, yes. Since he was responsible for them, he wanted to insure confidentiality.

Q. Did he at any time tell you that the Office of Economies was bothering him with respect to these documents?

A. I think he indicated to me he had gotten a request, Mr. Bangert, with regard to—I think Mr. Wilson, as I recall, was trying to make some composites of some type study—I'm not sure what type study it was—yes, he did mention something about this, or I was aware of it—I don't know if I got it from him or through some other meetings, but I certainly was aware of it, and I think that place, as I recall, some time in February, but I'm not sure about that. The only reason why I remember February there is I remember looking at some of the events with regard to some of the response in Mr. Mangen's case, I'm talking about. As you know, he has been—I'm getting off on another subject, but he has

lost—all indications are he has lost his merit increase on this, his outstanding award, sort of things like this, so—and a reprimand—he has been given a letter of instruction with some type of reprimand, is under consideration now, so, in helping him, and trying to draft something up to help him and what not, I got exposed to some of this at that time. So I noticed in there that there was a meeting between Mr. Wilson and Mr. Joyce, some time in February, I think it was, concerning the need for this data . . . or some of the data.

Q. When Mr. Mangen talked about that, did you say to Mr. Mangen, even in jest, that the best way to solve that problem would be to get rid of the documents?

A. No, I don't recall anything like that. In fact, I'm sure I didn't.

Q. Did he make any statement to you?

A. I don't recall it if he did. I don't think he did, no. I might add that—in explaining this a little bit more, is that, I guess there's a—I know we've done a lot of work with, I'm talking about this section head, with Mr. Wald or Mr. Schwartz, Fred Morrison, who's in with our Commissioner—he is back now after a short stay with the EPA on us—we were thrown with a lot of projects together, in fact, so many times, he'd admit this on the record, that we were the only two that were sort of sticking our necks out in a lot of these instances, and, of course, we became very friendly and compatible with one another—I'm talking about trying to work on some of these projects, so some of this may have been said in jest—I don't know if it was or not—I did not have any conversation with Mr. Wilson, but I do know this.

Q. Well did you have a conversation with Mr. Mangen where it was said?

A. He may have mentioned it to me. I don't recall the time or circumstances.

Q. Well, do you recall the conversation?

A. That he had received? I do—I take it back—he did tell me he received a request from OEC about some of the data (?) I'm sure on that—the time I'm not sure of. . . And I think at that time he indicated to me that he was going to talk to Mr. Joyce about it and a subsequent meeting was set up after that between Mr. Joyce and Mr. Wilson, I believe it was—I'm not sure who else was in the meeting.

Q. Well, during that conversation or in any *other* conversation you had with Mr. Mangen, did he indicate the Office of Economics was *bothering* him with respect to the material?

A. I don't think . . . (?) the word "bothering"—it was a bother, to some extent, I guess, when you're busy or what not—I don't like the word "bother" necessarily—but, it's extra work, yes.

Q. Well, as I understand it, the Office of Economics requested this information about February 27th, and, as you may know, there is testimony that at that time, the Office of Economics was told that the information had been destroyed. Then, ultimately the Office of Economics *got* that information, and found mistakes in it.

A. That was after the meeting with Mr. Joyce, as I understand. This is the February meeting I'm talking about also—excuse me, go ahead.

Q. Well, then, after that, and apparently those mistakes were attempted to be corrected, and then apparently the Office of Economics found *more* mistakes and brought that to Mr. Mangen's attention and I'm wondering if in connection with any of that, whether or not Mr. Mangen indicated that the Office of Economics was "bothering" him or was a "pain in the neck" or was "bugging" him or anything like that.

A. I think "bugging"—because all of this is a bother, I mean—if you got to do any extra work—and involved in this, in all sincerity, I mean, if it's anything beyond what you normally do, you might say "bugging" or "bothering" to some extent—ah, I think the chain of command ought to get something like this, whether it be within our own system or between agencies, I mean, to go through proper channels—I mean, the normal person to contact, I mean for Mr. Wald to contact is in charge of Office of Economics, his contact is Mr. Joyce, in the BNG—I mean, because even case work, I know, we get requests from other staff members and we're separate and distinct in this that we're real reluctant, in fact, very few cases I know do release it unless it's approved by our bureau chief or someone up above us, is what I'm trying to say.

Q. So that Mr. Mangen, then, *did* indicate that they were bugging him?

A. Yeah, I guess that'd be a good word, yeah.

Q. Now, did he ever indicate that the way to stop that bugging was to destroy the documents?

A. Not to me, no. Not to my knowledge that I ever recall.

Q. You don't recall any conversation where you and he may have talked on this?

A. Not specifically, no—it may have been said and I don't recall it, but I don't—I don't recall it right now, personally.

Q. Well, I wonder if you *would* refresh your recollection on that, because there is indication during the interviews that we've been conducting that there was such a conversation.

A. Between me and Mr. Mangen?

Q. Yes, sir.

A. Do you have a relative date there, any approximate date?

Q. March or April.

A. If he said it, I took it in jest, not seriously—I don't recall it. . . . Like I said, some of these are very—I'm not trying to dodge an answer or give you a nebulous answer but, ah . . . you must remember, there was, besides that job, there must have been—I'd be afraid to estimate how many other jobs concurrently going on at the same time—

Q. Sure, I *do* understand—

A. —and I'm sure I was talking, Mr. Mangen was talking to me, and I in turn was talking to him and then I moved on to another job, and then as I indicated, I maybe didn't—not maybe, I *didn't* record it anywhere, so it's some of this is nebulous, so as you develop it, I'll be more than happy to.

Q. Yes, and again I hope you understand my questions are not accusatory at all, but only an attempt to refresh your recollection and get as much of the full story as we can.

A. Sure.

Q. There have been conflicts of testimony and we're trying to resolve them.

A. I can understand that, yes.

Q. Now, back in February, when the request from the Office of Economics was made for certain information to be compiled, were you aware of that request?

A. I don't think I saw it. I was aware of it because it was in conversation—I mean, somewhere along in the conversation, it—I don't know if it was the conversation of Mr. Mangen or the bureau chief, or who it was, but I was aware of it, but I don't remember seeing the letter.

Q. Well, would you try to recall whatever conversations you may have had in this regard?

A. It may have been just in passing—I don't think there's anything specific other than, I think it was the bureau chief—our bureau chief that mentioned something to us about we had received such a—or mentioned to me we had received such a request.

Q. That would be Mr. Joyce?

A. Mr. Joyce, yes. . . . I'm sure it came up—as I indicated, I'm sure maybe even Mr. Mangen mentioned it, but I can't tie it down to a specific, is what I'm—one of my problems, go ahead.

Q. Were you aware of why this information was requested by the Office of Economics?

A. As I indicated, I understand Mr. Wilson was making some sort of special study or the Office of Economics was making some sort of special study with regard to the date.

Q. Did you know what use he was going to make of that information?

A. I think . . . I think he wanted to use it in a proceeding . . . ah, that he was working on, as I recall.

Q. Do you know which proceeding?

A. Yes. It was in the Belco case, I recall, I think it was, yes, and he—ah, he was trying to, from hearsay, or information I gather, or from what I was told, he was trying to gather some information as to the concentration of the industry, I think, with regard to producers and—well operations, refineries, and such things as this, the concentration of industry, I think it was. . . . Some of this I'm recalling here I'm sure is from the newspapers or comments in the newspapers—what I'm saying, some of this, I don't know for sure where I got it from, but I do recall that, yes.

Q. Well, do you recall whether or not at that time, that in February or March, you had an idea of what use this information was going to be put to by the Office of Economics?

A. I don't think at that time I did, no. . . . But subsequent to that, I'm sure I did, as I related to you earlier. . . . I think in the initial stages as we keep delving into this, Mr. Bangert, I think, as I recall, a conversation from Mr. Mangen or from Mr. Joyce or both, maybe or a combination thereof—I think

Mr. Mangen got a telephone call for someone in the—I think Mr. Mangen got a telephone call, if I'm not mistaken, and this is what started the whole series.

Q. The telephone call from someone in the Office of Economics?

A. The Office of Economics, that's right.

Q. Now—

A. Exactly who he was I don't recall.

Q. Do you know who prepared the information for the Office of Economics?

A. With regard to the Belco Case, or?

Q. Well, with regard to the material that they want—who in the Bureau of Natural Gas prepared the documents for the R-405 documents for the Office of Economics?

A. I guess Mr. Mangen did.

Q. Now, do you have specific knowledge on that?

A. No, other than implied.

Q. Could it have been Mr. Pavetto?

A. I was trying . . . that's what I was trying to relate to and . . . Miss Joyce Powell was involved, or assisting Mr. Mangen at that time and they could have been a combination of those.

Q. Of Pavetto, Powell, and Mangen?

A. Right. . . . Miss Powell was doing the statistical compilation, as I recall. Mr. Zabel was looking at the data and seeing whether it was done right, taken, as I recall, off the worksheets, as I think it's correct, and then Miss Powell was doing the adding and subtracting and giving the compilation.

Q. Now, do you recall how long it may have taken for the Bureau of Natural Gas to prepare this information through the Office of Economics?

A. No—you mentioned something about a mistake, so . . . something about a mistake is coming back to mind now, ah . . . I'd just be guessing, but I'd say it was a couple weeks at the most . . . I don't know definitely. But I do recall, now, since getting in the—Miss Powell, and Mr. Pavetto, and what not—that there were some mistakes in the compilation. You're right, yes, I do recall that now, yes.

Q. And those mistakes were discovered *after* it had been transmitted to the Office of Economics, is that right?

A. I think that's correct.

Q. OK. Now, as section head, would this information have gone through you?

A. No. This, again, would come under the jurisdiction of R-405, and since Mr. Mangen was the custodian of that information, the normal route for this would be from him to the bureau chief and then over to the chief of the Office of Economics.

Q. So it should go from Mangen to Joyce to Mr. Wald of the Office of Economics.

A. I guess Mr. Wald or whoever was supposed to receive it over there, or maybe both. This is our general—this would be our general procedure.

Q. Do you recall any conversations with respect to the time factor elapsed from the time that the Bureau of Natural Gas received this request til the time that the material was actually furnished.

A. The material was actually furnished?

Q. To the Office of Economics, yes.

A. I could say, from my understanding of it, the meeting took place sometime in February, I think you said February 27th or somewhere in that time . . . I'd just be hazarding a guess, but I'd say here again, a couple weeks—I don't know.

Q. But you don't recall any specific conversations with respect to time?

A. Time . . . no, I don't . . . as we develop it here a little bit more, maybe something will come back, but just right now I don't.

Q. Well, here's what I'm trying to get at—let's see if you can shed any light on it one way or another. Our understanding is that the request was received for the information from the Office of Economics by the Bureau of Natural Gas on Feb. 27th. Our further understanding is that the material was ultimately furnished to the Office of Economics about May 22nd—I'm sorry, March 22nd.

A. [laughs] I was going to say, we're slow, but I didn't think we were *that* slow.

Q. And we further have information that would indicate that it took probably three days at a maximum to complete the task, and obviously one of the things we're trying to determine is why was there a delay of almost a month.

A. To get it back to them?

Q. To get it to the Office of Economics, that's right. I wonder if you may have any information in that regard?

A. I might . . . knowing how slow some of the bureaucracies, ours included, work, ah . . . I won't say I wouldn't be surprised, but that is a singularly long time because that only takes a few days. I do not know if someone, for instance, like the bureau chief, was out of town at that time, or something like that, where it would have laid on his desk or he would not have forwarded it. It may have been a matter also that would require him discussing it with the ED—the bureau chief's discussing it with the ED or some other appropriate parties—this happens on—on—on some data requests because we get them constantly, I'm talking about BNG-wise, so it's a slow mesh, but I wouldn't think it would take that long, ah—

Q. But you have no specific knowledge, all you can do is speculate?

A. Speculate—that's exactly what I'm doing here. . . . When was that meeting? Do you have any information on that . . . I'm trying to refresh my memory—was that meeting between the—Mr. Joyce and Mr. Wilson on the 27th of February, you said?

Q. No . . . It's my understanding that there was a telephone call on—

A. On February 27th?

Q. On February 27th and then sometime after that, it's my understanding that Mr. Wald had a conversation with Mr. Joyce after a Commission meeting.

A. As I indicated earlier, there was *some* meeting—I don't know if Mr. Wald was there, but I remember in reading some of the sequences here . . . or happenings, I thought Mr. Wilson and Mr. Joyce, now Dr. Wald could have been there . . . since I wasn't present, I don't know *who* was there.

Q. Now, did you have any responsibilities in the Belco case?

A. No, I did not.

Q. Did the Bureau of Natural Gas have any responsibilities in the Belco Case.

A. Oh, I'm sure it did, yes.

Q. Do you know who may have worked on that case?

A. Since this was a CP filing—a certificate filing, producer filing, certificate-producer filing, it would be handled by our producer division, Mr. Ed MacManus is division chief—now, who from his staff was working on it I'm not aware of. . . . This did not—this did—since this did not involve reserves, but it was trying to justify a higher price, ah . . . reserves did not have any play in it so gas supplies such as I (?) have an input into the hearing.

Q. Was there any conversation within the Bureau of Natural Gas relative to the position that the Office of Economics was going to adopt in the Belco case?

A. I don't recall any. Like I say, I wasn't in the main stream on that. That was handled in a different division, but the problem—not the problem, but one of the facets here is that, walking down a hallway you can hear all sorts of things—this is what I'm relating facts to hearsay is what I'm having a problem with now, so as to put them into proper perspectives, and to my knowledge, no, but I'm sure I've heard something on it or something to this effect, is what I'm trying to say, and being exposed to some of these meetings, and sometimes discussion related to other activities comes up for discussion, but to my particular knowledge—

Q. Do you have any *idea* what the Bureau of Natural Gas, or what the representatives of the Bureau of Natural Gas, thought about the Office of Economics' theory in that case?

A. No, I don't . . . we tease—and I say "we"—like I've indicated, Dr. Wald and I are real good friends and many, many others in the (?)—in a professional way we *tease* one another very often, not *per se* me, but I mean others, and—

Q. Good bureau competition.

A. Right! and we always jump on about their dealing in theory and far-out concepts and put their feet back down on the ground and telling them about us, and—like I said, and many, in all frankness . . . Dr. Wald had come to my aid many, many times in something *very*—not adverse positions, but when we're postulating a position sometime, as I mentioned to you about this AR-69-1, when this was first submitted, one of the few people that jumped to my side immediately and recommended this was Dr. Wald. He thought it was an excellent idea, and one of the—I might mention also—in some of the development of checks and balances to see what was happening, rather than going through some of the elaborate processes that had been developed in the course of the service approach in the Commission, that Dr. Wald and I worked on several other aspects where we were recommending keeping track of just how many new reserves added each year would be just as good an indicator as going through these lengths of detailed hearings and what not.

Q. So you had a good working relationship?

A. We had a good working relationship, and I don't mean we agreed on everything, I'm not trying to propose that, but generally the information flowed reasonably free in between us, we conversed with one another quite frequently and—

Q. Did you lunch together every now and then?

A. Ah, not too often, because they were in a different building, see they were up on K Street in the last days and we were down on 4th & G. But earlier than that we did. We'd see one another in the cafeteria and we'd sit with one another, sure.

Q. How about with Dr. Schwartz?

A. Dr. Schwartz, yes, oh yes. . . . Not quite as close as Dr. Wald. Schwartz dealt some too on the intellectual side, where we did not have anything to do with it, and I—Dr. Wald, of course, supervised both aspects of it—I mean, intellectually, with regard to the Office of Economics, the intellectual and the gas side. So, he and Fred Lawrence were, I guess, my main contacts down there, and Dr. Franklin, who was in charge of all the forms we utilize within the Commission would be my main sources of contact with the Office of Economics.

Q. Well, did you kid Dr. Wald at all about the theory that they were advancing in the Belco case?

A. Oh, no, no. . . . No, I don't think in that case, when it gets that far down the line, you don't kid about something like that, I mean—they've thought it out, it's their belief and, sincere belief, I think, that this is the thing to do, and we don't—I don't, and I know most (can't understand him)—once that much work and that much effort has been put into it—I don't know how much effort—you don't go in there once a position has been formulated—you don't go in there and try and change his position. Nor would he come over and do the same thing to me. I mean, this is mutual respect for one another in our professional capacity.

Q. Now, as I indicated to you, and perhaps you knew before, there is testimony to the effect that on February 27th, the Office of Economics asked for this information and they were told that the information had been destroyed. Now, did you have any knowledge with respect to this fact prior to the paper article?

A. No. Not to my knowledge. If I did, I don't recall it. Maybe Mr. Mangen might have mentioned it to me, but like I say, in the context of everything else going on, I didn't put too much substance in it, if he did.

Q. Well, one thing we can't really figure out is why Mr. Mangen may have told them back in February that the material had been destroyed, when in fact it hadn't been destroyed.

A. Unless, like you said, to keep them from "bugging" him.

Q. Do you have any knowledge on this?

A. No, I don't but that—in the supposition we're going on here, I could see how this could be developed, but I don't have no facts to support—

Q. Well, did you have any kind of a feeling back then that that may have been what happened, back in February or March?

A. No—I don't think—not that early, no. . . . I don't know what days—I was gone for two weeks on February, but I—I was gone for two weeks in February, I don't remember the exact dates, but . . . I think it was early February I was gone—the first two weeks. I think it was, on the military, as I mentioned to you.

Q. Well, do you believe that Mr. Mangen indicated that the material was destroyed when in fact it hadn't been? in order to stop the Office of Economics from bugging him?

A. Possibly, yes, could be—

Q. Well, do you think that's what happened?

A. It could very well be, but I don't have anything to support it. In all fairness to Mr. Mangen, at the same time, the National Gas Survey was going on and we were trying to whip that in shape. He had a responsible position as a supervisor in that proceeding, so with both those going at the same time, it could have been a very, very heavy burden on you—I'm trying to say, work load on people, but the other thing—this is why, like I say, some of this may have picked up in the hallway and newspaper accounts. Practically everybody in his section except I guess the secretaries, him, myself, and possibly two or three others who were not capable of doing much traveling, almost everybody was on the road—in for two weeks, out for two weeks, this was the cycle we set up—we were borrowing all the people we could get our hands on to complete it within the time frame that the order and the chairman had given us with regard to the National

Gas Survey and I'm sure, as you're aware of, we were using people from the navy, we were using people from USGS, with the Interior, we were borrowing people from other divisions who had some working capability for calculating reserves from other sources in BNG.

Q. So you were under the gun at that time?

A. You're so right! And still [laughs].

Q. And you believe—at least, you believed at that time—that there would be nothing wrong with destroying the R-405 update documents because you believed that that was the same procedure as followed earlier?

A. Same procedure as followed earlier, yes. Exactly.

Q. Do you think it was fair that Mangen was disciplined when, you participated with him in R-69-1 and approved and witnessed with him the destruction of those documents?

A. Well, of course, that's a different proceeding and like I said, that was a matter of public exposure and what not in AR-69-1, I mean, before the examiner, and everything—but getting back to your—you're talking about reprimand now?

Q. Yes. Do you believe is was proper that he be reprimanded?

A. Personally? No! And I think, my personal would be—here again, I'm looking at this from hindsight, always 20/20, but there's a lot more involved and I think BNG *in total* has some responsibility in this, and, because ah, if all this came up, as we've been discussing in February, and indicated at that time that records were destroyed, when they were not destroyed until some later time, the bureau chief sure was not diligent in not telling us something, I mean, either Mangen or myself or somebody passing the word down, because we're talking about it—I'm just making some rough calculations—about three weeks from the discussion and meeting with Dr. Wald and Wilson was not until this next date I have here. Secondly, or thirdly, I think, the legal people who sat in with these, all three proceedings, whom Mangen worked with, I'm talking about (?) up this second order here—I'm talking about R-105—and I think the Commission has some responsibility. I don't think—I don't think to single any one person, what I'm trying to say—I think this is to be shared by everyone, and personally I don't agree with the reprimand. he's getting, but I mean, that's not my decision, and as I indicated to you, I'm helping him with his defense, and I've made statements and I'm trying, hopefully, to get some help here, because he is—I analyze this from the viewpoint, he's not getting anything personal out of this, nobody's paying him, I'm not paying him, and I know no company's paying him, I don't know personally, but I'm sure of this, he's a very hard-working dedicated guy, and he was one of the first ones when I came into the Commission, when I had a lot of leeway in recruiting my staff, that I wanted, because he's hard-working—he's worked many, many nights until twelve, one o'clock and got home, staggering home, as I say, from fatigue, not from drinking, four or five o'clock in the morning he'd come on back to work, particularly when he's working on these rate proceedings, and he is, in my dealings with him, always been very honest, and very above board, and he's a very, very capable young fellow.

Q. And as far as you're concerned, and as far as you have knowledge, no one, neither the Commission, nor the director, nor the general counsel, nor the bureau of natural gas chief, nor anyone else at any time indicated anything to you, or indicated anything generally with respect to a policy against destroying documents such as this?

A. That's correct.

Q. Mr. Albares, I have here a work sheet entitled "National Supply Team" and it lists the number of docket numbers and staff on them and closed or status and Lawrence Mangen signed them. Now is this something that's prepared and sent to you on a regular basis?

A. We are under instruction to prepare it once a month, by teams or by activities, for submittal to our division chief, who I understand, then makes a summary of it and compiles and sends it to the Bureau Chief. . . . This is—we call it a status report of what the section is doing.

Q. Now, that'll come in to you?

A. Yes.

Q. As division chief?

A. As section chief.

Q. Section chief?

A. Yes. Section head . . . from the section, and then I would send it to collect Mr. Mangen's and any others (can't get it) we have several of those and send it to my division chief, who would be Mr. Cornelius.

Q. I see. And then Mr. Cornelius?

A. Would collect several sections in the division and then make a composite or in some cases, just reproduce that and send it to the Bureau Chief.

Q. And then what happens from there? Does it go to a Commissioner or to other offices?

A. I'm not sure. He may make a composite or something from there, but I'm not sure what he does with the bureau chief. I know he is—several times, ah . . . in a recent order, R-459 Refund Obligation, he called me down and asked me about the status of it, and I know he's referring to that sheet, so I do know—what he does with it, I don't know.

Q. OK. Now, as you'll note, there is an April 9th date on this, and with respect to R-405, you can't—

A. Didn't I make it out all right—

Q. It says "completed something and work papers destroyed".

A.—over in the extreme right . . . looks like "nearly completed". . . I'm not sure what's after "completed" . . . "work papers destroyed." Right!

Q. So, would that indicate that as of April 9th, those work papers had been delivered to Mr. Vivian for destruction?

A. Yes, I would think so.

Q. And that would tie in with your date of April 1 or thereabouts when you were advised that the work papers had been destroyed?

A. Yes.

Q. OK. . . Now, at any time, did Mr. Mangen or Mr. Joyce or anyone else in the Bureau of Natural Gas or the Federal Power Commission advise you that Senator Hart was requesting the information in R-405 update?

A. I was aware of it. Here again, I don't know the date, though, and I don't know if it came from the bureau chief or Mr. Mangen or hallway gossip, but I was aware of it, sure.

Q. Were you aware of it prior to the time that the papers were destroyed?

A. I do know a letter was received . . . I don't know the date . . . from Senator Hart to the Chairman, I think . . . the date escapes me . . . March, something like that . . . in which certain information was requested . . . I think the, if I recall correctly, the Bureau Chief, Mr. Joyce, answered that sometime thereafter (?) had received the original letter—I can't recall the date, but I would say it would probably be some time prior to April 1st, or in that vicinity . . . in fact a date sometime in March keeps sticking in my mind, March 22, or something like that . . . but I have that here on another matter and I'm not sure if I'm being influenced by this pad or not . . . but I do know—I did know, or through—through discussion with the bureau chief or Mr. Mangen or hallway gossip that such a letter was received from Senator Hart requesting some data, yes.

Q. Was anything said to you or did you hear any conversation, even in jest, with respect to "that the best way to handle that would be to destroy the documents"—namely, Senator Hart's request?

A. No. I didn't hear that. . . No. . . Not only Senator Hart's request for this particular data, but we were continually getting Congressional inquiries—I mean, this is a normal, everyday function, I guess, but it's part of the work load, I mean, BNG is getting requests *constantly* either—if it's not on reserves, it's on prices or some other aspect of which BNG has a part.

Q. So, you never heard any conversation like that?

A. No. I don't see what would be *gained* by it—go ahead, excuse me.

Q. Do you know if there's a formal proceeding going on now on the Mangen reprimand?

A. Is there a formal proceeding?

Q. Yes.

A. Papers have been served on him outlining the maximum reprimand, I think, that can be—that is being considered to be invoked on Mr. Mangen, which is a thirty day suspension, from my reading of the letter. He has been served this letter as of earlier last week—I've forgotten the exact date—I don't have the exact date—he was given ten days to reply, he has sent in his reply, and it is now in the hands of the ED and he's supposed to be making a ruling on it and give him something back formally in writing.

Q. And then from there I presume that if the executive director rules against him, he'll have an appeal to the Civil Service?

A. It is my understanding, and I'm very concerned about this, Mr. Bangert—of course I'm in jeopardy just like anyone else, but it is my understanding from

talking to, and I went with Mr. Mangen down to our personnel people, Mr. Claude Fike, our personnel director and what not, that basically under the provision of the umbrella under which the ED is spelled, we basically have no appeal route through the Civil Service. Now, I think there's a civil appeal anytime, I mean, in any proceeding, but using the thirty day criteria as I understand it, this is inter-agency and not subject to Civil Service Review, other than procedural aspects, that they do it under proper procedure. Now, that's my understanding from talking to Mr. Claude Fike, our personnel director. Like I said, I helped Mr. Mangen and worked his papers up, and we checked every avenue open to us and went all the way down and talked to personnel people and found out what is the civil service regulations on this and this is what we were told, that this is an administrative matter within the Commission, the way it is worded now.

Q. You don't have a right to appeal to a Hearing Examiner, or something like that?

A. This is what bothers me about it. I would think we do, and I would think through civil action we could get this, if this is desired. Of course I think everyone is waiting to see what deposition will be made by our executive director before going this far.

Q. Because this could cause a reprimand to be put in his record because of suspension?

A. Exactly! . . . And of course, as I indicated, he was up because of his work in gas survey, he was one of the only—four people, I think, who got a substantial cash award—something like \$350—that is in limbo. So I think he is very severely being penalized here and what not, needless to say. But this process is where we are now and we're awaiting answer from the executive director. As I indicated—and I think I gave you a copy of it—I think I might mention also for—if you look at the memo from the Chairman for June 29th, which I gave you, you can see all of a sudden in the second paragraph of that, "all the documents and other papers which were required by Commission order or other proper authority to be treated as confidential material shall be *physically* maintained and kept under suitable custody"—all of a sudden the word "physically" is creeping into it.

Q. You never heard this before?

A. Well, I got served a copy of it.

Q. I mean, prior to the time you got this copy, you never heard that—it says, "this memorandum reconfirms instructions previously given to the bureau and office heads concerning the safeguarding of confidential information."

A. I'm not aware of it. It says "office heads." It could have been the bureau chief and I wouldn't—

Q. Well, if they gave such instructions to the bureau chief, you never heard about it—the bureau chief never transmitted those instructions to you?

A. No. No. . . . And as I've indicated, in the sphere of operation, not only in reserve work, but in rate work we basically go out in the company's office, look at data, extract what we want, and carry those work papers back with us for the hearings, or studies, or whatever we're conducting, so this would apply bureauwide, or Commission-wide, excuse me—not only the Bureau of Natural Gas, the Bureau of Power, and OEC, and Office of General Counsel, and everyone, as I interpret it.

Q. Just one other—two other areas, I guess. . . . You indicated that you don't think Mr. Mangen is guilty of any wrongdoing in this instance because he was following what you believe was prior procedure.

A. Yes.

Q. If, in fact, Mr. Mangen caused these documents to be destroyed, or attempted to cause them to be destroyed, in order to deprive another office of the use of them, would that alter your opinion?

A. Well, first of all, I don't believe he would do this, personally. I don't think he would—like I say, "bugging" is one thing, but carrying it that far, I think, would be a little extreme, in my personal opinion.

Q. You don't think he would do that?

A. No, I don't.

Q. If that is the case, would it change your opinion as to the wrongdoing?

A. I would have to get a lot more background information before I would even try and make a rule.

Q. OK.

A. Because I would have to know a lot more about other things that went on at the bureau chief's level as well as the OEC—I mean, I'd have to get filled in more before even trying to—attempting to render judgment.

Q. OK. . . . Now, did you, recently get any memorandum from the chairman of the Commission indicating that all Office of Economics requests must go through the Chairman—all Office of Economics requests for confidential information must go through the Chairman?

A. A memo of some type?

Q. Yes.

A. No, I don't think so, no.

Q. Not that you're aware of?

A. No, not that I'm aware of. . . . It might have meant the office head again, and—

Q. Has Mr. Joyce ever talked to you one way or the other with respect to cooperation with the Office of Economics in terms of their requesting information from the Bureau of Natural Gas?

A. Yes, as I indicated, it's always been very free-wheeling—we collected, as I indicated, a lot of reserve data, which I know Dr. Wald and . . . I think Dave Schwartz used some of it too, and . . . some of the other people in OEC, and we had to *gather* some of this data, I mean, it's not—this stuff is not confidential, I mean, it flows freely, is what I'm trying to say, in like *reports* and such things. In many instances, Dr. Wald calls me and asks if we've got a report or if we've seen a report, or in some instances, can you give me a report, or something like that, and this is more in your area, and as far as I know, we've always—I'm just speaking for the section, now—

Q. Well, has Mr. Joyce created an aura of letting you know he *wanted* you to cooperate?

A. Oh, I think so, yes . . . and we—because so much of this is done, Mr. Bangert, on a—as I indicated earlier, on a person-to-person basis. I mean, Haskell will pick up the phone and call me and says, "Have you seen a copy of this?" or "Can you get me a—" like the AGA Report, he says, "Have you seen the latest release on AGA?" And I'll say, "Yes" or "No," and he'll say, "Maybe we ought to get ourselves a copy—get a copy for yourself and a copy for me." Well, we never had any hangups of that type, and he's done the same thing for me . . . ah, they have sent down many reports, I mean—that they go to seminars, or something like that, trying to pick up, as they call it, a little "jewel" of information that might be helpful to us—ah, activity in a certain area, or something like that, and—

Q. They pass that on?

A. They pass that back on to us. I don't think we got any hangup *per se* is what I'm trying to say. And not only Dr. Wald . . . we've treated *all* others this way—this is the spirit I've tried to instill, to act as a unit and we've got some excellent people in our section, I might add, and we've got some that's maybe not as strong physically, as you looked at our section you notice we have some handicapped people, for instance—

Q. But you *do* know, don't you, that at least the Chairman of the Commission doesn't have a real great impression about the Office of Economics?

A. I would hate to agree with you on the record [laughs], but I would have to say at least that I have a tendency to agree with you—some discussion there, right.

Q. You don't

A. I would interpret it that way, let me put it that way, my personal reaction.

Q. Well, does that feeling of the Chairman, does that permeate down to the people of the Bureau of Natural Gas?

A. I'm sure it does. I don't see how you could stop it, because, like I say, hallway gossip and certain things . . . bathroom philosophers, and certain things . . . I'm sure that—

Q. Well, it's generally known that the Chairman doesn't think much of the Office of Economics.

A. Right, something to this effect, but no supporting evidence or anything else like that.

Q. Were you aware of the fact that there was an attempt to abolish the Office of Economics at one time?

A. Was I *aware* of that (incredulous)? You mean recently . . . in the last couple years?

Q. Well, since 1969.

A. No, I was *not* aware of that.

Q. Were you aware of the fact that there was discussion as to whether or not Mr. Wald should be reclassified as a political appointment?

A. There was some hallway gossip about that, yes, running throughout, but I don't—like I say, I don't know—it's not weighted in any substance that I know, other than hallway gossip. . . . No, but I think, to get back to your point—another point, I think, is . . . ah, we get a valuable service out of—we don't always agree with the Office of Economics, never did, and I'm sure they don't accept our theories and concepts a lot of times either, but I think there's a good basis there for some substance, I'm talking about, in overall help to the Commission in formulating policies and carrying out its mission—Well, I think there's a need for it, if you want my personal opinion—I would hate to be without them, because, as I indicated earlier we (?) on them.

Q. You believe they do serve some function?

A. Sure.

Q. Earlier you indicated that you had to take some of your leave to teach school, and I'm wondering where was that?

A. Down in Virginia Beach—I didn't have to take it. It's some military teaching. I teach Command General Staff college and this was one. And since I've already had two weeks of military leave, I mean, if I want to go on this military tour again, I won't take any leave—which is understandable, isn't it? I mean, no question—no problem there. They just said they needed some assistance, I wasn't planning on doing that this year, and they ran short of instructors, so they asked me to run down and help, which I've done in the past, and which was down in Virginia Beach area, so when they told me what the problem was—they were short of about six or seven instructors—I told them under the conditions I would try my best, even if I had to take annual leave to go, I would try my very best.

Q. OK. . . . I have no further questions. We appreciate very much your assistance here today. Is there anything else you would like to add for the record, Mr. Albares?

A. I think we have pretty thoroughly discussed, we've gone through the sequence of events. I'm sorry I couldn't be more specific with dates to be of help to you.

Q. We understand. . . . If there is anything that you think of afterwards that you think may be relevant to this, we'd appreciate your letting us know.

A. OK. . . . and you would want me to send this to your attention, you want this Handbook of Reserve Estimation with the guidelines and the instructions and how was that information transmitted back to Washington in AR-69-1, and what was the basis for burning the papers in AR-69-1? You want some written response from me on that?

Q. Right. And also, then, the Mangen Testimony in the AR-69-1.

A. Right.

Q. If there's anything else that you believe would be relevant, we would appreciate it.

A. Thank you, you've been very—

Q. The time is now approximately 12:10. Because this is a preliminary investigation at this time, because the identity of all the interviewees is not yet fully determined, and because the subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are requested not to discuss the substance of this interview with anyone other than your personal attorney.

SUBCOMMITTEE STAFF INTERVIEW WITH FRANK ALLEN, ACTING DEPUTY CHIEF, BUREAU OF NATURAL GAS, FPC

Let the record reflect this interview is being recorded. Present are Frank Allen, Charles Bangert and Bernard Nash. The time is now approximately 2:00 p.m. Mr. Allen, since the nature of the conduct being investigated may amount to violation of one or more federal laws, we believe it only proper that you be advised of your rights. You have the right to remain silent, and to refuse to answer any questions you feel may tend to incriminate you. Anything you do say can be used against you in any other proceeding. You have the right to have counsel of your choice with you during questioning and the right to talk to him for advice before we ask you any questions and before you answer any questions. If you desire to answer questions now, without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time to talk to a lawyer. Let me show you this paper I was reading from and ask you to spend as much time as you desire to read it and reflect on it and if you agree to the interview, please sign the paper.

ALLEN. I am an attorney myself. I have no desire to have counsel present. There is absolutely no way there's anything I can say that would incriminate me in any fashion.

NASH. Good. If you agree, just sign that and we'll get right on with it. Mr. Allen, we are going to ask you a series of questions and we would like you to understand that there is no basis of accusation or innuendo or pre-judgment intended. It is only a means of eliciting information from all witnesses and obtain necessary background information to evaluate all the circumstances involved.

Q. Would you state your name and address for the record.

A. My name is Francis C. Allen. My home address is 2735 Welcome Drive, Falls Church, Virginia. My business address is 825 North Capitol Street, N.W., the FPC offices.

Q. What position do you hold with the FPC.

A. I am at present Acting Deputy Chief of the BNG.

Q. When did you obtain that position.

A. July 6, 1973.

Q. What were you before that.

A. I was technical assistant to Commissioner Rush Moody, Jr., from November, 1972 until July 6, 1973. I was Assistant General Counsel in charge of natural gas pipelines and electric wholesale rate matters in a permanent and acting capacity for approximately 2 years prior to November of 1972. I was a trial attorney on the staff of the General Counsel from December 1, 1969 until I was made an Assistant General counsel approximately a year and a half later.

Q. And before you went to work for the FPC where were you employed.

A. For the 17 years immediately preceding my appointment with the FPC, I was employed by the Potomac Electric Power Company in Washington, D.C.

Q. In what capacity.

A. The last two years when I was with PEPSCO, I was in the Office of the General Counsel as an attorney. Prior to that time I was staff assistant in the rate economic research department, responsible for the office management of the rate and economic research department.

Q. Did you have any background—Did you ever work in the natural gas area before coming to the FPC.

A. No. I had no experience with natural gas whatever.

Q. When you were with the Power Commission, in the office of General Counsel, what proportion of your time was related to natural gas and what proportion to electric power matters.

A. For approximately 18 months a 100% of my time was devoted to natural gas matters for the next 18 months when I was made assistant general counsel, approximately 75% of my time was devoted to natural gas matters. And the remaining 25% was devoted to electric matters.

Q. Given your rich background in electric power matter, how did it come that when you got to the Commission you started to work on natural gas matters.

A. My experience was with the power company. My experience was primarily in the area of rates and matters related to rates. The jurisdiction of the FPC is very limited with respect to electric rates. We have jurisdiction over the wholesale rates for resale of electric energy represents about 1% of the total electric energy sales in the country. The number of cases that come before the FPC, electric cases, is very very limited. It was a considerable number of gas pipeline rate matters. I had experience in the rate field. The need was in the gas side. I was offered a position in either the electric or the gas side and when I was given an explanation of the work involved, I chose the gas side because that appeared to be where the most work was and I was very much interested in obtaining as much experience in the legal and rate fields as I possibly could, as quickly as I possibly could.

Q. Who hired you for employment with the FPC.

A. I don't know what you mean by who hired me. I don't know exactly what that means. I was interviewed initially by Chairman Nassikas. He in turn referred me to a Mr. Bardine. I don't know what his first name is who was then Deputy General Counsel. I was then interviewed by Richard Solomon who was the General Counsel. And I was interviewed by Abraham Spalter, who was Assistant General Counsel in charge of gas pipeline rate matters. And somehow among the three or four of them I was hired. By whom I really don't know, as such.

Q. How did you make your first contact with the FPC with a view to obtaining employment there.

A. I—in September of 1969, I contacted Cong. Broyhill of the 5th District of Virginia and indicated to him that I was interested in a Schedule C type appointment with the federal government. He told me to find some type of job and then come back with something more specific. I became interested in the FPC because I had had 14 years experience with rate work; 3 years experience in legal work, and it seemed to be the spot that would take advantage best of my total background so he arranged an interview with Chairman Nassikas and I went there and talked with Chairman Nassikas and I was subsequently hired.

Q. When you were hired, was it a Schedule C appointment?

A. No, it was not. I believe the proper term is Schedule A, but I'm not sure.

Q. And did you say Richard Solomon was General Counsel.

A. Yes. David Bardine—that's the name of the deputy who first interviewed me.

Q. When you were promoted to assistant general counsel, was that under Mr. Bardine and Mr. Solomon.

A. No, before I ever actually began to work, I was interviewed in the middle of September in 1969 and was notified that I had been hired. Now, I don't know precise dates, but somewhere in there Mr. Solomon left as General Counsel and Gordon Gooch assumed the duties of General Counsel. I don't know exactly when or how. And I met Mr. Gooch for the first time on December 1, when I reported for duty.

Q. I take it then your subsequent promotion took place when Mr. Gooch was General Counsel.

A. Yes, that's correct.

Q. Until you were hired—changed positions to become Commissioner Moody's technical assistant.

A. That's right.

Q. You were asked to bring with you to this interview all writings of any nature whatsoever, whether draft or final, including diaries, logs and records of telephone conversations, referring or relating to use lease or disposition of the documents involved in the attempted destruction. Have you complied with that request.

A. I have.

Q. Can you provide for the record, the documents you've brought.

A. I have a document which is a memorandum to me as an assistant to Comm. Moody from the Executive Director Maxson asking that I outline or furnish to him all memoranda, letters, notes, files or other conversations, other papers or records relating directly or indirectly to the delivery of these confidential filings to the companies of the BNG of administrative operations for destruction. I have my response to Mr. Maxson of the same date, June 20, 1973, in which I state to him I have no knowledge or memoranda, letters, notes for the files, notes of telephone or other conversations, or other papers or records relating, directly or indirectly, to the delivery of these confidential filings from the companies by the BNG to the Office of Administrative Operations for destruction.

Q. We will mark this Allen Exhibit 1. Do you have any other documents.

A. That is the sum total of all documents that I have.

Q. I note two other documents in your briefcase, are those—

A. These are copies of the same document. I had xerox copies made for you.

These are for my personal file.

Q. Oh, I see. How did you go about complying with the Subcommittee's request for these documents here today.

A. The only contact I have had at any time in connection with these documents was when Mr. Maxson asked me if I had any contact with it. I kept a copy of my response and of his memo to me in my files. I went to my files and had xerox copies made of this memorandum and my response to it, as of June 20, 1973.

Q. Did you go back searching your files between the time I called you and asked you to bring documents with you and the time you appeared here today.

A. I went to my files and took out these documents, yes.

Q. Yes, but, did you make a general search through the files to see whether any other documents remain or were contained in your files in any way referring or relating to the attempted destruction of documents by Mr. Mangen or the use and disposition of the documents involved.

A. First, let me say I don't have very extensive files as such. I went through everything that I had. I was asked by Mr. Maxson to outline to him everything that I had. At that time, I knew from my own knowledge that I had absolutely no contact with this at all in my position as Assistant General Counsel with re-

spect to natural gas pipeline and electric wholesale rate matters, there was no occasion for me to have contact with this. I had no contact whatever with the National Gas Survey or whatever studies generated this material. I had no reason to be. In Commissioner Moody's office from November 1972 until June 20, 1973, I had absolutely no contact. I did not participate in review of any memorandum for him. I did not participate in the preparation of any order, if indeed any was issued. I don't even know whether the Commission issued any orders with respect to these documents. I had absolutely no contact whatever with this. And from June 20 until today, I have had no contact with this general subject matter with the one exception I was given the responsibility to prepare along with Dr. Paul Root, a response to some testimony given by a Mr. Halverson from the FTC and to clear up some what we felt to be erroneous impressions which we felt may have been created by that testimony. My response there dealt with the fact that Mr. Halverson had made some statements and responded to some questions which would seem to indicate he was not afforded, or the FTC was not afforded, cooperation by the FPC. We feel that this is untrue, that FTC has admitted in other areas that we have cooperated fully with them, but, nonetheless, I was given the responsibility for replying, to some of these suggestions that might be read into Halverson's testimony. That I did last week sometime, the letter was submitted to the Subcommittee.

Q. Who instructed you to prepare comments for Mr. Halverson's testimony for submission to the Subcommittee?

A. My direct instruction came, to the best of my knowledge, in the following manner. I had been informed that I was to be Acting Deputy of the Chief of the BNG and about the same time Commissioner Moody indicated to me that I was to go down there. He said I also volunteered you for a project. Volunteers to the Chairman, and the Chairman wanted someone to respond to these statements of Mr. Halverson. He said I volunteered you, I said fine I'd be delighted to do it. That was my assignment.

Q. Did you know you were in the running for Acting Deputy Director before Mr. Moody told you you would become Acting Deputy Director?

A. No, I can't give you the time. This all happened very quickly.

Q. This week or last week?

A. No, I was made Acting Deputy I think I indicated on the sixth of July. Sometime in the week preceding the 6th of July I went in and told Commissioner Moody that I had been offered a job elsewhere and that is completely irrelevant as a matter of fact. At any rate, that same afternoon he came back and he indicated that he had not discussed this with the Chairman at all but the Chairman Nassikas had said to him that he would like me to go down to the BNG. The Deputy Chief retired under this most recent retirement program as of June 30. I guess something on that order. They needed someone to go down to the BNG. And he asked me if I would be interested and, if so, asked me if I would contact the Chairman and go talk with him about it. And I did contact the Chairman, I believe, the next day. And told him I would like to think about it for some period of time—24 hours—and I would let him know. That night I weighed the two positions that I had open and very frankly I used a somewhat unusual perhaps methodology in selecting, but I went to the Lord that night and said if you would have anyone of these jobs, kindly close the door on the other one. The next day I called the government employer, the man I was to be interviewed by. He was out of town for the next week or so and I took this as a pretty clear indication that the Lord really preferred that I take one job as opposed to the other. And that was in the BNG and that's the way I selected the job.

Q. Who was this other alternative employment with?

A. With the Price Commission.

Q. Now, you say at the same time Commissioner Moody indicated to you that the Chairman mentioned to him that he had in mind for you to take this job; that he also indicated that he was gonna volunteer you to respond to Mr. Halverson's statement.

A. Commissioner Moody indicated to me at or about the same time. I can't remember these details exactly. That he had volunteered me. That someone need to respond to the Halverson statement and when they were discussing who was to respond to it, he volunteered me for the job, he, Commissioner Moody volunteered me.

Q. Who was discussing it?

A. I don't know. The Chairman and Commissioner Moody. Who else was there I don't know. I did not ask Commissioner Moody whether this was in a meeting of the Commissioners, or more, I just don't know.

Q. As I recall, Mr. Halverson's testimony didn't name you or involve you, did it.

A. No, it did not.

Q. Did you have any personal knowledge of the allegations made by Mr. Halverson.

A. By personal knowledge, I read the transcript.

Q. But you weren't at the Commission involved in the matters he was talking about were you.

A. That's correct. I was not at the Commission involved in those matters. That is correct. I had been with the Commission and I did assist to a limited degree Mr. Gooch in the preparation of a somewhat similar response to a Subcommittee headed by Sen. Magnuson when a Mr. Ward who was I believe Mr. Halverson's predecessor helped in the preparation of that response by Mr. Gooch.

Q. You said you had no personal knowledge. You said the Commission wanted you to prepare this response and send it in. Given those facts, why did you conclude your letter to the Chairman, telling the Chairman you were sending this letter in your own personal capacity and not on behalf of the FPC.

A. I was asked to respond on a technical matter and to give my views on a technical matter as to the accuracy of the statements that were made and the possibility of any misleading information that might be contained in it. I was asked as a staff member to evaluate this not an official action by our Commission, there was no order directing this thing. I was given an assignment and I could have just as easily concluded that it was entirely accurate and filed nothing. But I was asked as a staff member to respond to the testimony of a staff member in another agency. That is why I signed it in my own capacity and these are my views entirely.

Q. You showed it to Commissioner Moody did you not before you sent it.

A. Yes.

Q. Did you also show it to Chairman Nassikas.

A. Yes, I did, I told them this is the response that I am going to send over to this Committee.

Q. Did anything at all change in it from the draft you showed them and the one you sent to Chairman Hart.

A. There was . . . I showed them a draft and after I showed them that draft. I then went back and added in about the second or third paragraph a reference to a case I believe it is the City of Chicago case. There is about a one line introduction and I believe there is a quote and a cite in the City of Chicago case that was added and then I sent this out.

Q. That was the sum total of the change.

A. Yes.

Q. They suggested no additions or deletions or changes in it.

A. No.

Q. Was your concluded remarks that this is in your own personal capacity in it when you showed it to the Commissioners.

A. Absolutely. Which is exactly my understanding when I took the responsibility to respond to this that it was to be my personal opinion and not that of the Commission, which again, is exactly the type of response which was made by Mr. Gooch to the testimony of Mr. Ward before Sen. MacIntyre's Committee. That he at that stage gave his comments as a staff member, not the Commission itself. A staff member knowledgeable in the technical aspects of what was said. Without bragging, I have a lot more technical background and knowledge than any member of the Commission. Perhaps all of them put together.

Q. Well, I know that General Counsel Gooch submitted the reply to Chairman Magnuson when Bureau of Competition Director Ward had some critical comments to make about the FPC. Now that Bur. Director Halverson had additional critical comments to make, why did General Counsel Forquer not reply as his predecessor replied. Why did Mr. Allen get selected for the job.

A. I can't tell you why Mr. Gooch was selected before other than the fact that he had expertise and competence to do this or at least assimilate the data. You had some hearings here I don't know the dates. But immediately at the close of those Mr. Forquer was hospitalized for approximately a week to 10 days.

Q. Five days.

A. Five days—right. I don't know that he felt up to it. I don't know whether it was felt by others that they should impose this on him since he had just come out of the hospital. No one knew what the state of his health really was as far as I know at that stage. I was qualified. It was the information that I didn't

have I could readily collect, and a lot of it had to be collected and I was fully able and willing to do the job.

Q. Who helped you pull together the information to prepare your letter.

A. No one helped me pull together the information as such. I went to various people in the BNG and asked specific questions. If the descriptions of the use of this AGA data was entirely accurate and I had already concluded that it was not. Among other things, based upon the letter from Mr. Gooch and Sen. Magnuson before it was apparent that Mr. Halverson to a certain extent was making exactly the same mistakes that his predecessor Mr. Ward had made before. Now in addition, in reading the testimony Mr. Halverson never said directly that the FPC did not cooperate. I believe in response to a question made by Mr. Bangert, Mr. Bangert framed the question in such a fashion that his concluded remark was something along the lines, I presume you got this information at a bargain price someplace else. From the way the question was framed, without a detailed explanation I don't think Mr. Halverson could have very well answered that question without creating the impression that they were able to obtain this information through other sources, perhaps even through governmental sources or elsewhere. And that there was something wrong with the estimate made by the FPC of the cost to the Power Commission. After having seen that question, I went to the people involved who would have been responsible for this type of thing and they indicated that what was. Well, first of all I went to our Office of Public Information which is located on the first floor of the FPC offices to find out if anybody from the Trade Commission had come in and asked for Form 15 and if they had been denied access to this Form 15. I was a little bit surprised at this because the Form 15s are kept out on an open shelf. Absolutely open. Anyone at all can walk in and take those things off the shelf. They don't even have to ask permission from anyone to take them. So it is a little bit surprising the inference that was left. I then asked the people in the office of Public Information if they had been asked to give anyone these Form 15s and if they had refused to give it to anyone. One lady in that office indicated that someone came in and asked for copies of the 1972 form 15s and she informed the person that those had not come into the Commission as yet. They were not due as yet. And as far as I can determine from my investigation that is the only instance in which any information by any stretch of the imagination could be said to have been refused to anyone and that was because the information had not been filed with us. We hadn't received it. Other than that there has been no attempt based on my conversations with many people at the FPC to deny access to the FTC or anyone else. What they apparently wanted was the manipulation of data contained in Form 15s for someone to extract these and do different things with it. Our estimate was that it would take one of our senior analysts at least a year in order to prepare the manual data that was requested in the details in which it was requested. Now I believe unless I'm mistaken that in response to Mr. Gooch's letter to the Magnuson Committee Mr. Ward responded and indicated that in all fairness they had asked for data which had to be prepared and that perhaps this was misleading. But in response to Mr. Bangert's question, I believe that there was a possibility of a misunderstanding by virtue of the framing of that question. The way the question was framed there was a suggestion an implication in the question that the FPC was being less than cooperative; that they had jacked up a price to discourage or disuade the FTC and such is, in my judgment is simply untrue, and I wanted to clear up that impression.

Q. In making your investigation leading to your conclusions, did you review FPC files to see the extent of internal FPC memoranda setting forth the substance of conversations between FPC and FTC personnel.

A. There are not too many memoranda as such. I looked at our files and I saw the request. I looked for the request from Mr. Ward's office. I don't think it was from Mr. Ward, but from one of their employees in the response to that request indicating that the information requested would cost approximately \$25,000. I don't know that there were any internal conversations that there were any conversations with people with the FTC.

Q. Did you investigate that.

A. Yes, and did not find any memoranda in connection with that.

Q. Did you ask people employed by the FPC whether such contacts took place.

A. Yes, I did.

Q. Who did you ask.

A. I asked in Mr. Gooch's old office and the Office of General Counsel.

Q. Did you ask Mr. Diener.

A. No, I had no reason to ask Mr. Diener.

Q. Did you ask Mr. Gooch.

A. No, I did not contact Mr. Gooch. He is not with the FPC.

Q. Did you ask Mr. Root.

A. Mr. Root would have absolutely no knowledge of this request of Mr. Gooch. No, I did not ask him.

Q. Did you ask Mr. Jenkins.

A. No, Mr. Jenkins has no contact with this whatever.

Q. So, I'd just like the record to reflect the basis of your conclusion that the Commission cooperated fully with the FTC.

A. Well, let me say I think your most recent question asked suffers exactly the same defect that I was concerned about with respect to the question propounded to Mr. Halverson. Now you asked if I had contacted Dr. Root. We are talking about Form 15 data. The answer is absolutely no. Dr. Root was retained by the FPC for the Natural Gas Survey. He is not a regular employee as such of the FPC dealing in our day-to-day operations. The same is true with Mr. Jenkins. Mr. Jenkins was employed for the specific purpose of participating in the Natural Gas Survey. They had no direct contact with our day-to-day operations and manipulations of this data.

Q. This record will reflect that the question proposed to you Mr. Allen was whether you found any instances of noncooperation by FPC whether you believed whether you believed FPC cooperated with FTC. You chose to give a lengthy elaboration of the form 15 episode. The question to you related to cooperation in toto. Now, if you didn't understand that to be the question, maybe you would like to cite for the record whether you believe that instances of cooperation or noncooperation between the agency staffs existed. Did you check into that.

A. With respect to the question asked by Mr. Bangert.

Q. I'm not talking about Mr. Bangert. I asked you a direct question.

A. I looked at this and to the best of my knowledge and to the best of my investigation, the results of my investigation there were no instances where the FPC was uncooperative. Everything that I can determine is that the FTC was told that there are proper procedures to be employed in making any request. I certainly don't think it's proper working procedure in any organization for an employee of one organization to call up one in another organization and say hey can I have such and such data. Now there may have been instances where an employee to an employee was told I cannot supply that information, how about writing a letter to this effect. Address the letter to someone or other and let's request this on a formal basis. Now I don't consider that a lack of cooperation personally at all. I think it is inherent to orderly and proper procedure. There were those types of instances, I am convinced. Although I don't know of any specifically. Where a request was made it is my judgment that our response in each case to that request was that we will supply any information that is not retained by us in a confidential status because we had obtained that on the basis of its being kept confidential. Other than that, we have never refused to supply any data. We did say if you wish to have our people not only provide you with the data, but for us to provide you with assistance in assimilating that data in some fashion other than that in which we have received it, perhaps making copies of it for you, or something of that type, we would like to be repaid the cost of our services. Actual cost incurred in putting this data in the shape in which you requested it. And with that caveat we, to the best of my knowledge, provided everything they've asked for.

Q. Now, with those caveats, surrounding your conclusions that FPC is in all circumstances been cooperative with FTC, I gonna ask you the question I asked before so the record is clear to your answer. In drawing that conclusion, did you discuss the matter with Mr. Gooch.

A. No, I did not.

Q. With Mr. Diener.

A. No, I did not.

Q. With Mr. Root.

A. No, I did not.

And again I say Mr. Jenkins and Mr. Root are not ordinary employees for the FPC. They were employed for the sole purpose of conducting the Natural Gas Survey which has absolutely no connection whatever with Form 15.

Q. Did you discuss it with Mr. Joyce?

A. Mr. Joyce was on vacation at the time when I was preparing that response. I did talk with him on Friday before he went on vacation, yes. And then he went on leave the next day and that I suppose is one other reason why I was asked to prepare this because he was going to be away.

Q. What did you ask Mr. Joyce?

A. I asked him, as I recall it, read this question and asked him if we had, in fact, been uncooperative. I asked him if it were possible, I believe, I asked him if it was possible for someone to obtain this data as I felt.

Q. You're talking about the Form 15.

A. Sure. That's the only thing I'm talking about in this letter. That's all we're talking about is Form 15.

Q. My question to you was did you ask Mr. Joyce about cooperation or noncooperation by FPC to FTC. And you wish to restrict your answer to cooperation limited to Form 15 data.

A. That is the only inquiry we had. And that was the nature of the question and the \$25,000.

Q. You're saying to me your investigation concluded that the only inquiry made by the FTC and FPC was for Form 15 information.

A. My answer to you is precisely this: Within the context of the question asked to Mr. Halverson by Mr. Bangert where in Mr. Bangert indicates that the FPC offered to sell you some data for \$25,000 and you indicated you received this elsewhere at a "bargain price." That in response to that question, Mr. Halverson's answer was in general yes. I was concerned, the inference of that question and that answer was that the FTC came to the FPC and asked for information. The FPC response was fine, we will give it to you. It'll cost you \$25,000. It sounds from a question and an answer as though the Power Commission tried to dissuade the FTC, they tried to discourage them by tacking a price onto the information which the inference of the answer indicates the FTC received elsewhere. In my judgment the FTC has not received from any source the information in the form that they asked for from us, but with respect to that question and that answer I am telling you the FPC as far as my investigation is concerned, has cooperated fully. Now that is the entire extent of my comment in that letter, and in all other instances, I have not researched the total relationship between the FTC and the FPC except in the context of that question and that answer.

Q. So you are saying your belief that the FTC cooperated fully is limited to cooperation fully with regard to Form 15 type information. Is that right?

A. I am saying that the answer which I filed with this subcommittee was confined to that inquiry. Now when you say my belief as such I may have many beliefs. I do not believe that the extent of the cooperation of the FPC with the FTC is confined to this one thing, but I have not done an extended investigation into things other than this. I have no grounds to believe that they did not cooperate. But I will not limit my belief to just that area, no.

Q. You've been talking for the past 30 minutes about how you convinced the FPC to cooperate fully, my question to you is cooperated fully with respect to all requests of the FTC or are you limiting your testimony because of a lack of knowledge on your own investigation to cooperate fully with respect to the FTC request for Form 15 data.

A. As I indicated to you before, my response was in connection with that particular question asked by Mr. Bangert and the answer given which is limited, the question is limited and the response by Mr. Halverson is limited to this request for data which comes from Form 15. Now I think I've said that about three times.

Q. Do you know what the instructions were to FPC staff respecting discussions with FTC staff relating to FTC's AGA investigation?

A. No, I do not.

Q. Do you know what the FPC General Counsel instructed FTC staff if they wanted to consult or obtain information from FPC staff?

A. I know that in a letter from Mr. Gooch to someone in the FTC and I don't remember who, it may have been Mr. Ward but I don't think so that some employee of the FTC asked if they could talk with one of our economists about some gas reserve data or something along those lines. In response Mr. Gooch indicated that we would be happy to supply anyone they wished to talk with. They were free to talk with whomever they pleased, however, this is a very technical area and there are people who have expertise in this area and people who don't. This was really the type of question they were asking was more properly directed to a geologist or a geological engineer. Now, if they would like to talk with somebody like that they could make arrangement through Mr. Gooch's office and we would make these people available to talk with them and answer whatever questions they might have.

Q. You weren't present at that conversation were you.

A. I read the letter. It is recorded in a letter. As I indicated, I read the letter.

Q. Is it recorded in a memorandum or interview prepared by the FTC.

A. It is recorded, to the best of my knowledge, in a letter from Mr. Gooch to someone, I can't give you the name of the employee, Mr. Gooch responded and said that you really don't, in this case, want to talk with an economist, I don't think, I think you want to talk with one of our technical experts. And in the same letter, unless I'm terribly mistaken, they had asked some questions, indicated some interest in cases involving certificate matters and Mr. Gooch said well we have some trial attorneys who are presently trying some cases like that. If you like to talk with them fine. Just let me know and arrangements will be made. To the best of my knowledge, they, they the FTC, never followed it up, on any of that.

Q. Were more explicit instructions given that FTC was not to communicate with any FPC employee without obtaining prior approval from Mr. Gooch.

A. I don't know. I do not know. I know of no such instructions but I am obviously not aware of everything within the FPC.

Q. Are you aware of whether Mr. Gooch communicated with a member of the FTC or its Chairman or its General Counsel indicating that Mr. Gooch or the FPC did not look with favor on the Trade Commission commencing the AGA investigation.

A. I am not aware of any such communication of any, any indication at all, of any such situation as that.

Q. Are you aware if I would substitute Chairman Nassikas for Mr. Gooch, whether that took place.

A. I am unaware that anything along those lines took place whatever. I would be very surprised if it did.

Q. Why would you be surprised if it did?

A. In my experience dealing with a number of people over a rather extended period of time in my judgment I have never met any one with any greater degree of integrity nor have I met anyone with any greater degree of integrity than Gordon Gooch. As far as integrity and ethical standards are concerned, I'd stack these two men up against anybody I've ever met in my entire life. And therefore it would surprise me very much.

Q. Do you think such a communication would be an unethical communication?

A. To indicate that you are unhappy if someone is going to institute an investigation the results of which may be critical of what you're doing is something that is the right of the FTC or anyone else. I don't think it would be unethical to be opposed to such a thing but I think it would impugn the integrity of the person responsible and I don't think that Chairman Nassikas, I don't think Gordon Gooch, the FPC has anything to hide that can be exposed by the FTC, this group or anyone else. They have made some very tough decisions, but they have made them openly and while we are on this subject, let me get back to specific examples along those lines, things that were in my personal knowledge. When I went with the FPC there were a number of practices by the staff others that I do not think reflected the highest order of integrity or ethics, for that matter, that we were instructed in the Office of General Counsel by Gordon Gooch with the apparent consent of Chairman Nassikas, in all of our dealings with companies with in agreements with the general public, to play our cards absolutely face up on the table. Before Gordon came with the Power Commission, there was a standard practice of going into a settlement conference involving pipelines or others, the FPC set back and they played their cards rather close to the chest and they never indicated to the parties what their position was. Our instructions were, put that thing out open on the table and let the people make their decisions.

Q. Well, if you represented PEPCO, would you go into a negotiation session on behalf of PEPCO with your cards on the table if you're trying to get a settlement or would you play it close to the vest to get the best settlement you could in your client's interest.

A. In the situation where I represented the self interest of a client, obviously I would work in the best interest of that particular client. However, now you have to let me finish the question, here we are dealing with the public interest, the overall public interest and that is not the interest of any one particular client and we feel that the public is entitled to our views. We are not taking an adversary proceeding, an adversary position as such we are trying to arrive at a result, a resolution of issues that is in the public interest. That's the standard and the charge that's given us in the Act, and that we sought to do. And I view those functions as very, very different. Very different.

Q. Did you participate? Are you suggesting that the prior conduct before Mr. Gooch came, the rules you just indicated, were unethical.

A. In my judgment, although I cannot back this up with any specific instance or documentation, I think there was conduct which was unethical. I think there was conduct inconsistent with the maintenance of the degree of integrity that has been introduced by Chairman Nassikas and Gordon Gooch working with him in the Office of General Counsel and throughout the FPC. I think it was less than that.

Q. You said that already. I'm trying to find out if the specific conduct you're referring to in regard to settlement conferences, was the kind of conduct you had in mind as being unethical.

A. That is one area, sure. That's one area. I believe I cited that as one example of this type of thing. We were told to play things open above board and.

Q. Did you participate in conference between Mr. Gooch and counsel representing some Louisiana utilities concerned with obtaining the continuing supply of natural gas from United Gas Pipeline.

A. No, I did not.

Q. Are you aware as to what went on during that conference.

A. No, I am not.

Q. Are you aware as to whether Mr. Gooch represented United Gas Pipeline in the past.

A. I don't have any firsthand knowledge. My entire recollection is that he has not represented any pipeline. That his first contact with the natural gas industry, really. His first personal contact, now obviously the firm he worked with had contacts, but his first contacts was with the FPC. When he came he had no experience in the natural gas field.

Q. If Mr. Gooch's partner was General Counsel to the parent of United Gas Pipeline, do you think it ethical or unethical for Mr. Gooch to participate in the FPC decision whether to take the side of United Gas Pipeline or the electric utility being cut off.

A. Wait a minute. Was it ethical for Mr. Gooch to represent the view of the Power Commission in defense of a Commission order. Is that what you're saying.

Q. No. I am saying if Mr. Gooch's law firm through Mr. Gooch's partner represented United Gas Pipeline, United Gas Corp., Pennzoil United, and Pennzoil Corporation, all of which control right now by Pennzoil Company, and which was controlled in the past by Pennzoil Company, this firm represented those companies and his partner, in fact General Counsel to Pennzoil Company, was it ethical or unethical for Mr. Gooch to take a position with respect to a litigated matter involving United Gas Pipeline cutting off the supply of natural gas to a Louisiana utility.

A. As long as Mr. Gooch himself had not participated himself on behalf of one of these companies and as long as Mr. Gooch was unpersuaded, unbiased. Now he has a unique capacity that you are not going to find in a lot of people, in my judgment, along these lines. I don't see anything unethical about it. I am not sure that the facts are actually as your question would seem to imply. I am not sure of what conference you are talking about—

Q. Well, we can go on anyway, because I guess we just strayed into this area from your remarks about sending a letter into the Chairman and that kind of led us down a path that wasn't in the script of what we're going to cover. We have come quite far along in this area, so let's go back to what our original purpose was instead of following up every answer we are getting.

A. Well, as I understood the original purpose from your telephone call yesterday, it was with respect to this so-called attempted destruction of documents.

Q. Right and we just got all down this road because when you told me what your participation was while you were telling me about the letter you wrote to Chairman Hart and then we got into who told you to do and then we talked about the FTC and then we got into ethics. Now, in making your decision to take the job as Acting Director of the BNG, rather than going to the Price Commission, was it indicated to you that Mr. Joyce would be leaving the Commission in the foreseeable future.

A. No. Not directly, in any fashion. It was apparent that that was a possibility. If you are asking, in effect, if I were told that I would take over the BNG or anything along those lines, I certainly considered that that was a possibility. Although I had no assurance along that line at all.

Q. Was it indicated to you directly or indirectly by Commissioner Moody that you would be in line for Mr. Joyce's job if he did leave.

A. He indicated that he thought I would, yes.

Q. Was it indicated to you, directly or indirectly, by Commissioner Moody or Chairman Nassikas that another possibility would be that you could replace Mr. Leo Forquer upon his retirement and become General Counsel.

A. Only in this respect. When I talked with Chairman Nassikas, I indicated to him that I am an attorney, in my judgment, a very capable attorney, one who is qualified to fill that job and I wanted to assure myself that if I took the position in the BNG that that would not preclude the possibility of my replacing Mr. Forquer in the event that he did leave. And I was told by the Chairman that it would not preclude that possibility. That I would be considered along with others if and when that eventuality took place.

Q. Did you feel you had just as good a shot as becoming General Counsel as becoming Director of the BNG, based upon those conversations.

A. Yes, when Mr. Forquer, it felt that I had a better shot, at becoming General Counsel.

Q. Did Mr. Nassikas or Mr. Moody indicate to you whether they were advised by Mr. Joyce of his desire to be leaving the FPC at their pleasure.

A. No. No. That was never conveyed to me in any fashion. No, sir.

Q. Are you a member of the American Gas Association.

A. No, I am not.

Q. Since obtaining employment with the FPC have you discussed, directly or indirectly, with any private entity the possibility of obtaining employment.

A. If you are asking a question that extends over almost 4 years, it is going to take a minute to review this. I don't want to give you a wrong answer, but to the best of my knowledge, the only discussion I have had concerning employment at all was with the Price Commission. I have not discussed employment with any natural gas pipeline with any natural gas producer, with any distributor company. I have not discussed employment with any electric utility. To the best of my knowledge, I have not discussed employment with any firm, any private law firm, even. Let me back up. I received a call in about December from a law firm in Houston asking for a resume. For the life of me I can't tell you the name of the company now. I sent them a resume and I have heard nothing from them since.

Q. Baker and Botts.

A. No.

Q. Vinson, Elkins.

A. No. Jawarski is one of them and I don't know. They asked for a resume and I gave it to them and that is the extent of it.

Q. When did this occur.

A. I think in December of this year and I also submitted a resume to the Executive Offices of the President for a possible position within the Administration.

Q. Who did you put down on that resume as references.

A. For work references, I obviously listed Mr. Gooch and my immediate employer and supervisor or head men, and I am almost certain I would have put down George Lewis and Cyril Wolfsie of the FPC. I am relatively certain that I put down Robert Cohose who is an attorney in Arlington, who is a very good friend of mine. I am relatively certain that I put my minister down, who is Byron Wilkinson. I put down I think my immediate supervisor, my most recent one in PEPCO who was Thomas E. O'Dade, who is Secretary and Assistant General Counsel down there. Harold B. Jordan of I think it is West Point, N.Y. I believe is his address.

Q. Did you put the same persons down as references in regard to the resume you sent the Jawarski firm in Houston.

A. So far as I know, I just . . . As a matter of fact, in one instance I think I just copied over the same resume I had before. There would be no reason to change it.

Q. So the record is clear let the record reflect that the documents supplied by Mr. Allen are labeled Allen Ex. 1 with regard to the June 20, single page memorandum to Mr. Maxson from Mr. Allen and Allen Ex. 1A consists of a two page memo so marked dated June 20, 1973, in the form of a memorandum from the Exec. Director to Mr. Allen, Assistant to Commissioner Moody. Since obtaining employment with the Power Commission, did you ever receive any honorariums, gratuities transportation expenses, gifts or any other thing of value more than \$10 in value from oil or gas companies, officials or representatives.

A. No.

Q. From electric power companies?

A. No.

Q. Have you ever taken any trips which were paid for by persons other than yourself or the FPC?

A. No, sir.

Q. Have you discussed your appearance here with anyone prior to entering this room?

A. I told Tom Joyce that I was coming over here. I had lunch with Bill Diener and I indicated to him I was coming over here, and was somewhat puzzled being called because my understanding was that this was an investigation in connection with these documents and I had indicated to Mr. Maxson and I thought he had provided that information to the Committee and I was somewhat puzzled as to why I was being called.

Q. And what did Mr. Diener tell you.

A. He had no answer at all. He had no idea.

Q. Did he tell you whether he was coming over?

A. He said he was coming tomorrow. As far as the content of anything I might say, no, I have not discussed anything that with anyone other than to ask Mr. Maxson for the copies of these documents and then I remembered I had them in my own files and I got them there. I did tell him I wanted these documents.

Q. Have you discussed the appearance here of other persons with anyone?

A. I was told by other persons that they had been called over here. I was told several days ago, I can't tell you exactly when, by Mr. Albares that he had been called and was to come over here. To the best of my knowledge Mr. Mangen had indicated that he had come over here. That he had been called and testified, only to the extent that he had been called and I believe in the case of Mr. Mangen, I believe he indicated he had been questioned for approximately 5 hours, or something on that order. I have not discussed the details of anything anybody was asked or any testimony they might have given.

Q. Did you learn that Mr. Mangen was here when you were assistant to Comm. Moody or when you were?

A. No, as strange as this may seem I didn't even know who Mr. Mangen was, until about shortly after the 6th of June when I went to the BNG. I had seen someone and I had heard him referred to as Larry. I did not know that that was Mr. Mangen and I did not know him at all until other than to see somebody and connect the first and last name. Until the 6th of July when I went down to the BNG. He came in and introduced him—well, he didn't introduce himself. Somehow I found out who he was at that stage. He knew who I was in a Commission's office, I was a single person and it's a lot easier for the staff to know the various people in a Commissioner's office than it is for us to know 400 or 500 people on the staff level. So I did not know him.

Q. So it was on June 6 when Mr. Mangen told him he had been here about 5 hours?

A. I don't think it was that day. It was sometime after June 6, I believe, to the best of my knowledge sometime within the two weeks following, although I can't be absolutely certain of that. I was put in a position of being second in command of the BNG on a Friday. Tom Joyce went on vacation for two weeks the following Monday and very frankly I cannot recall every contact and every conversation I had in a strange situation I was put into; tremendous responsibility over that period of time. In fact, I just don't remember those details.

Q. When did you first learn that certain documents were directed to be destroyed by Mr. Mangen?

A. The first thing I heard about it at all was when a newspaper article appeared, and it was reported in the press that someone in the FPC had attempted to destroy some documents.

Q. Did you learn about it before that?

A. I didn't, no. I knew absolutely nothing about it.

Q. Do you generally attend Commission meetings?

A. Yes, I do.

Q. Were you on vacation during the month of May?

A. No.

Q. Do you remember missing any Commission meetings during the month of May?

A. Not that I recall.

Q. If you miss a meeting, does someone tell you what went on?

A. No. But I would. I can't state this for a fact but I would be surprised if this type of thing would be discussed in a Commission meeting as such.

Q. When were you first made aware of Senator Hart's request for some of the data underlying R-405?

A. With the same article that appeared in the paper—that he had made a request and that it was stated by somebody someplace that the documents had been destroyed—the whole thing came out in the paper. And it was a topic of

discussion among the employees then and that is the first knowledge I had of this at all.

Q. When did you first become aware that the Commission had written Senator Hart saying he cannot receive the data he wants? Or, are you aware that they wrote this letter?

A. I am aware that the Commission indicated, and I have been in on some discussions since that time, since all this came out. The exact time which I just can't tell you but I know that at some point I became aware that Senator Hart had asked for this and that it was indicated that this data had been gathered on a confidential basis with a promise of confidentiality to the suppliers of that information and it was sometime after the stories appeared in the newspaper that I became aware that there had been a request for this information.

Q. So before the newspaper story you didn't know that Mr. Joyce wrote Chairman Hart a letter dated March 20 saying you can't get it?

A. I didn't know it, no.

Q. You didn't review that letter before it was cleared by the Commission, you're telling this record?

A. If there is a letter from Mr. Joyce I don't know that that requires Commission clearance, but if it did so I absolutely did not review that letter, I never saw that letter and I was unaware of its existence until you just mentioned it right now.

Q. Search your memory and see if you can remember a Commission meeting in March in which Mr. Joyce received instructions from Chairman Nassikas and Comm. Moody how to answer Chairman Hart's request of March 7. The request being for some of the data underlying R-405.

A. As I indicated, I have no recollection of that at all. I have absolutely no recollection of anything like that.

Q. I'm accepting that. I'm just, you know, wanted to ask a second time so the record was absolutely clear that, you know, we are talking about the same thing.

A. I won't say that it did not take place because there are times when I or anyone else would be in a meeting and where you have no knowledge of what is going on. I don't necessarily listen to everything that's going on in a meeting. If I have no knowledge in it or interest in it, many times I don't pay much attention. But I don't think that ever came up in a Commission meeting, at least not one that I attended.

Q. If Comm. Moody were to sign off on such a letter what is the normal practice in your office? Does he get things directly or does it go through you?

A. He would not sign off on such a letter from any staff member. There is no such thing as signing off on a staff member letter. They may be reviewed as such but they are not approved or anything of that sort. In that situation, most of that if not all of that would come directly to the Commissioner. I don't know how this operates in anyone else's office other than Comm. Moody's. Comm. Moody is one of the most industrious people you've ever seen. He reads absolutely everything that comes in and as a matter of fact working for him is not quite as rewarding as it would be with other people in other situations because he does do so much detailed work himself. I am sure that I did not see this and although I have no first hand knowledge of this, Bill Gibson was also working in this office as technical assistant at that time and I believe had Bill seen anything like this, the two of us would have probably discussed it. And I don't recall any conversation at all with Bill.

Q. Do you recall missing any Comm. meetings during the month of March?

A. I would miss parts of most or many Commission meetings because the way we operated for a long time I would take the gas items and Bill Gibson would take the electric items and we would review those and then we would talk them over with Commission Moody before the meeting and often when a gas item was finished I'd leave, sometime when electric items were finished, he'd leave. And it is possible we left and something came up afterwards.

Q. Well if it were a gas item, presumably it would be taken up when you were there. R-405 was a gas item.

A. Not necessarily. The structure of the Commission meeting is such that normally you have an agenda with a number of gas items, a number of miscellaneous items, a number of electric items. Following that meeting there is usually, almost always, an administrative meeting. Now the most members of the advisory staff, department heads, people of that type attend the regular meeting, the assistants to the various Commissioners will attend the regular meeting. At the administrative meeting, which immediately follows this, the, unless you are specifically asked to stay, all staff members and all of the members on each.

individual Commissioner's staff, leave. And the Commissioners alone meet there with just those people on administrative matters that they asked specifically to be there. Now it may very well be that they took this up on the administrative agenda and I would have absolutely no knowledge of this whatever. We never attended those. I have only been to one administrative agenda meeting in the four years I've been at the Commission.

Q. Search your mind and see whether you can recall being for the Commission meeting during the month of May 1973 at which time it was revealed that Mr. Mangen attempted to destroy certain documents but that they were found ***.

A. I can't tell you when this came about, but sometime after hearing in the newspaper about an attempted destruction of documents or perhaps even an actual destruction of documents, I heard that the documents were not actually destroyed, but I really can't put that down timewise whether that occurred in May and I really don't, I can't tell you absolutely that it came in a Commission meeting, I just don't know.

Q. Are you sure it was after the newspaper story.

A. Before I heard anything. The very first thing I heard about this at all was in connection with the newspaper story. The thing came out in the paper that the FPC attempted to destroy documents and I think the inference of that article was that they had attempted to prevent this Committee from getting documents and when that newspaper article came out a lot of people at the FPC, including myself, for the first time became aware—I didn't even know the documents were in the Commission before then. They were requested in a Commission order, but I was not aware of the details of that order, I was not involved in any fashion in drafting that. I didn't even know it had been asked for. As a matter of fact, I didn't know until just recently that the documents you are talking about there were not used in connection with the national gas survey that this is a different function, that this is a staff review, that has apparently been conducted in the past.

Q. Did you see the letter of Chairman Hart dated May 18 which was discussed at Commission meeting on May 21, asking for the 79 company responses to be produced at Subcommittee hearings and asking for copies of all Commission memoranda dealing with the use and disposition of such documents.

A. Do you by any chance have a copy of it, that I might see? I don't know whether I've seen it or not. I may have.

Q. Mr. Bangert is looking for it. Let me go on and see if he can find it. Do you recall participating or listening to a Commission discussion as to whether to comply with Chairman Hart's request of May 18?

A. Somehow, sometime, and I don't even remember the details of how I got involved in this at the time, I remember seeing the order. Yes I do remember too. I remember seeing the order of the Commission which authorized the Chairman to see this. To release the information to this Committee and the occasion for my seeing that for being brought in on that at that time was I believe Comm. Moody wrote a concurring opinion. But at any rate Comm. Moody came out and asked me if I would do a little bit of research for him; that it was his impression that there was a lot of cases which indicated that geological and geophysical data was considered somewhat in the same vein as trade secret data and was considered to be property in a property right which could be protected and at that stage I did go do research for him on that. But to the best of my recollection, that was considerably after May 18. At that time, I may have seen this letter, at that time I believe a subpoena had been served on the Chairman. Is that right? I think I probably had heard of the letter from Senator Hart, but when I just simply don't know. I was not asked to work in any fashion on any response or to do any research or anything like that in connection with it, so it is difficult to remember.

Q. Prior to the occasion when Comm. Moody asked you to do a little research concerning property rights of geophysical type data, did you attend any Commission meeting or otherwise learn of any Commission action regarding whether the documents should be turned over to the Subcommittee? Just to refresh your recollection, we have a letter from Mr. Joyce dated March 20, which was authorized and then cleared by the Commission saying no. We had at least two and maybe three letters on this subject to Chairman Nassikas after the newspaper account revealing document destruction which replied to Chairman Hart's May 18 letter saying no for different reasons, you know, as we got different letters. And then of course, a subpoena was issued. I want to know before that subpoena was issued and you got involved with that research for

Comm. Moody, whether you were privy to any discussion or conversations or anything about Commission replying to Chairman Hart's request.

A. I am really not sure. I may have heard. I cannot tell you absolutely that I had not heard that Senator Hart had requested this information at some point. I was not involved in any discussions concerning that at all. If it may have come up in a Commission meeting after that. I really, truly, just don't know.

Q. Were you present at any discussions concerning a Commission investigation of the reasons for the destruction, or attempted destruction, by Mr. Mangen?

A. No. The first thing I heard about any investigation at all was when Mr. Maxson of the 20 of June sent this memorandum to me and that was the first I knew of any investigation at all. And he asked me if I had any knowledge of this. But I was aware, I am sure, before this, before the 20th of June, that the information had been requested and as a matter of fact I believe this thing had hit the newspapers long before the 20th of June. If it hadn't then I am mistaken about what I told you before. But the investigation, as such, I became aware of when I received this memorandum, and I gave him the response the same day.

Q. You didn't know that the Commission directed him on May 21 to conduct an investigation?

A. I did not. Again, that is probably something that would occur in an administrative meeting, I believe. Now, again, I cannot tell you absolutely that it did not occur in a regular meeting, but I don't think so. I don't recall.

Q. Were you present when the Commisioner discussed what the response to Chairman Hart should be when Chairman Hart said we're having hearings? We want you at the hearings; we want you to bring the documents with you to the hearings?

A. I remember . . . I was not present when that was discussed in detail but to the best of my recollection it was brought up at some point in my presence. I don't know whether it was in Commissioner Moody's office; I don't know whether it was in the Chairman's office, or someone else's office, but I remember about that time someplace that people were working on a response to that request. I do remember that people were working on it. I did not personally participate in that in any fashion, but I do remember it's having been mentioned in my presence, yes.

Q. Were you present when the Commission discussed what it should do?

A. I don't think so. The only maner in which I can imagine that that would have happened would have been if somebody, for example, solicitor had come in to a Commission meeting to give them something of an urgent nature. If it had to go out in a hurry. And I really can't tell you whether that happened or not. To the best of my knowledge, I was not present during any discussions framing any answer. It may have been mentioned someplace.

Q. You have limited that to framing any answer. I am not talking about were you present when they framed an answer, I want to know were you present when they discussed what the Power Commission should do? Whether they should supply the data, not supply it, have a conference about it, or what.

A. As I indicated before, it is possible and it is probable, I think, that I was in the Chairman's office or someone else, or somebody else's office. And someone came in and, in effect, interrupted what was going on and said I have this. I was not working on this and it is possible and I did not stay for any discussions of that, but to that extent, I couldn't honestly say that I was totally unaware that any letter was being prepared. I think I was aware that this response was being prepared. What it was what the answer was to be and all, I had no knowledge of at all.

Q. Are you saying then you probably knew about it before it appeared in the newspaper account.

A. I don't think so. I thought the newspaper account. The newspaper account came out about destruction. Now to the best of my memory, everything that I know of this in any fashion, occurred after the newspaper account. I was under the impression that thing hit the papers. And at some point in time a response may have been sent to Senator Hart afterwards in some fashion, perhaps by the Chairman, I don't know, but to the best of my knowledge not in contact with anything before the newspapers. As I recall, it was the first knowledge I had of this at all.

Q. Did you have any discussions or render any advice to Commissioner Moody respecting the attempted destruction of documents by Mr. Mangen.

A. As I indicated to you, I did do the research in that concurring statement and that is the only contact, only advice of any fashion, the only discussion of this I had with Commissioner Moody.

Q. You never discussed with Commission Moody whether Mr. Mangen did it or why?

A. No, sir.

Q. You never discussed with Commissioner Moody whether the Commission should supply the data to the Subcommittee or not.

A. No, sir. I did not. Other than the one I just told you.

Q. Well, we'll exclude that.

A. I advised him in no fashion on that at all. He didn't seek any advice from us on that at all. By us, I mean Bill Gibson and me.

Q. What do you do as legal assistant to Commissioner Moody. What did you do.

A. I drafted orders in cases that were assigned to us, some cases that were assigned to us. I also took the agenda before each meeting and reviewed gas items that were included on that agenda. There were usually anywhere from 40-50 maybe 60 various items, and several hundred pages of memoranda orders, pleadings and this type of thing and then made comments and notes as they went along and then we would sit down with the Commissioner before the meeting and we'd go over our comments on these various items and in turn he might mention something that particularly bothered him in one that we hadn't picked up and we would discuss those items. This to the best of my knowledge, did not appear on the agenda. I worked strictly with the gas items. Bill Gibson worked with the miscellaneous items and the electric items, because the gas agenda is considerably larger than really the combination of the other two usually. We did . . . that's the nature of our function.

Q. Did you advise or work with Comm. Moody prior to adoption of the optional pricing rule.

A. Yes, sir. I was not employed in his office at that time, but worked with him on that proceeding. Yes, I did.

Q. You were then in the Office of General Counsel.

A. I was in the Office of General Counsel and he circulated, not circulated, gave me a copy of a proposed draft he had, maybe more than one, and asked for comments. And I gave him comments.

Q. Where did the original optional pricing proposal come from. Was that drafted by Mr. Gooch or by Mr. Moody?

A. So far as I know it was drafted by Mr. Moody. It was his opinion and I believe it was his.

Q. Did you work with Comm. Moody in preparing the Belco case?

A. Yes, I did. I drafted part of it. He incorporated a number of suggestions I had in it.

Q. During the hearing process of gas cases, do you keep in contact with Mr. John Lotus respecting the conduct and status of the cases? When you were Comm. Moody's assistant?

A. No. When a case is being tried, as such, I had no contact. John Lotus, Jack Lotus replaced me as Assistant General Counsel in the pipeline and electric area. Now, when things come up before the Commission involving cases in Jack's area, I did discuss those with him from time to time. Either on my own initiative or on his initiative. He knew he could come to me at any time and I knew that I could go to him at any time. His function there in addition to being supervisor of the trial staff, as such, was also the same as ours was and that is advisory to the Commission and he discussed things with me and I discussed things with him. But not with respect to the conduct of the case that was going on at the time, no.

Q. Just the status of the case.

A. After it had been tried, and when it was before the Commission for decision.

Q. Well, let's take the Belco case for example. Now, you worked as legal assistant to Commissioner Moody. What types of matters did Mr. Lotus talk to you about.

A. With respect to Belco?

Q. Yeah.

A. Mr. Lotus had absolutely no contact with the Belco case at trial level at all. He, as every other division head, in the FPC, received copies of the draft opinion. He made some comments to me. He pointed out some typographical errors and to the best of my knowledge, he may have made one or two comments on substitute areas. Again, as in an advisory capacity to the Commission.

Q. But during the course of the hearing in the Belco case it is your statement that you had no contact with Mr. Lotus pertaining to the conduct of that case. Is that right?

A. Absolutely, and further than that Mr. Lotus had absolutely no responsibility for the trial of the Belco case.

Q. While you were assistant to Comm. Moody, did you have contact with any member of the Office of General Counsel or BNG concerning the conduct of the Belco case when it was going on?

A. When it was being tried?

Q. Yes.

A. Absolutely not. Absolutely not.

Q. Were you ever aware of the request of the OE for some of the R-405 data for use in the Belco case?

A. Only after all this thing hit the papers and the alleged destruction came out and all that type of thing, then many things that had apparently theretofore taken place surfaced as far as the Commission was concerned in general for the first time. And I knew absolutely nothing about that request for information. As a matter of fact, until after the Belco case was completed, I was not even aware that the OE was participating in the case; until the case had been fully tried, at the trial level. Now, I am sure that's an accurate statement.

Q. Were you ever aware of discussions pertaining to either abolishing the OE or making some of the jobs in the Office Schedule C?

A. I have been involved in conversations with employees at the staff level who questioned the value of the OE. If you are asking me if I had been involved in any conversations of any serious vein with the Commissioner with the Chairman or any of the Commissioners with respect to abolishing the OE, I don't remember the last half of your question, no, I did not. So far as I know there has been no. There is no serious proposal to my knowledge to a limit to eliminate the OE.

Q. The last half of our question related to changing the job to Schedule C.

A. When I first came with the Power Commission, there were I think 5 grade 18 jobs, Division head jobs. The general counsel the head of the Bureau of Power, the head of the BNG were all Schedule C. We were told at that time and this is strictly rumor, but it is the best I know, that in order to get the Chief accountant and the head of the OE that it was necessary for the then Chairman of the Commission, Joe Swidler, to make an exception of them and to give them career status in the job where the other comparable jobs in the agency were Schedule C, and that he did in fact have the head of the OE and the head of the Office of Accounting excepted and they were made career jobs and not Schedule C. We wondered why this situation obtained, but no official conversation, no.

Q. What do you mean by if we were to get?

A. I am sorry you will have to quote it back to me—if we were to get what? What I said there was is if he were to get. What I meant by that statement was the stories that I heard were that Mr. Wald who is the head of the OE and Mr. Litky who was the head of the Office of Accounting and Finance were unwilling to accept those particular positions unless they were made career positions—that they would not take it on a Schedule C. They would not subject themselves to the possibility of being turned out of a job if a new Chairman of the Commission were named. The stories we get is that's the only way they'd take the job and that's what I meant.

Q. You indicated you didn't have any serious discussion with Comm. Moody about abolishing the OE or changing the jobs back to Schedule C. What was the nature of the discussions you had with him.

A. Every once in a while I would indicate my judgment that we were getting nothing of any real value and we've had a number of things that have shown up in the press which I believe were provided to the press of the internal workings of the Commission, that I think came from the OE, very frankly. Any number of things.

Q. For example.

A. I was just getting to the for example. I understand, not necessarily from the press, that I understand that in his testimony before this Subcommittee that Cong. Brown in California testified that I was a former trusted lieutenant of Gordon Gooch, and I thought this was very funny so one day immediately after it hit the newspaper, I saw Mr. Wald in the office, in the halls rather, and I said hey Haskell I would like to thank you and your boys for the free publicity I got appearing in the paper yesterday. He became very incensed and made some very unkind remarks. But I indicated to him that I thought, in that instance, that he was supplying information kind of under the table to Cong. Brown. It didn't bother me in the slightest, but there were other things.

Q. But this happened after you made your recommendation and had your discussion with Comm. Moody about the Office, right.

A. I talked with Comm. Moody about this and I wouldn't say that there was any recommendation to Comm. Moody about abolishing it in any fashion, but I

did then and I do now question the value of spending that much money for the output I have seen, or the lack of output that I have seen from that Office.

Q. Let's go back and get some more items you believe leaked to the press. This you really mean was leaked to a Congressman.

A. This particular one.

Q. Before we do that. I hate to break into my own question but I don't understand what the leak was. I mean were you or were you not a trusted lieutenant of Mr. Gooch.

A. I was a lieutenant of Mr. Gooch, yes, and I would have readily admitted to that in any fashion.

Q. Was it secret that you were.

A. No.

Q. So why do you think that it was leaked by the Office of Economics.

A. It did not come through any routine channels that I know of, and when I confronted Mr. Wald with the fact that I believe that this publicity came through his office, he became very defensive, very incensed over the insinuation. I thought it was a very funny episode. But articles have appeared and I really can't give you a specific example. If I go back and see the articles I could cite some where things appeared in the paper before any action had been taken by the Commission. One time as an example to the best of my recollection, the Commission had a proposed order on its agenda one day and it was discussed among a very very few people and the order was changed and the newspaper didn't catch the change. Now I think something was leaked in this respect. Because the action that the Commission took was not that which was recorded in the paper. An action which was recommended to the Commission was reported in the paper. I am giving you an example to the best of my knowledge and I can't give you the details of it, it occurred sometime ago. That I consider a leak.

Q. Can you identify the nature of what you are talking about. A case, an order—

A. An order. A commission order. A proposed order was put up to the Commission and it appeared in the newspaper, a summary of what the Commission had done appeared in a newspaper and I can't tell you but the Commission did not take the action, it did not issue the order that was proposed, they issued another one. And what was reported in the newspaper obviously had to come from someone within the FPC and was not an action of the Commission.

Q. What else can you recall in terms of leaks.

A. I don't know, uh, internal . . . there have been any number of articles which appeared in Jack Anderson's column and others where people have taken many times out of context and misquoted things. For example, Jack Anderson ran a lot of columns I believe in connection with the So. La. rate proceeding. Now he didn't get that information out of any public file. He didn't get that information from any document that was public in the FPC. He received information elsewhere. It is just a matter of personal belief that I do believe that much of this is being leaked out by the OE for the apparent purpose of embarrassing the Commission.

Q. Do you have any shred of evidence that the leaks are coming from the OE.

A. I don't other than just I expect the fact that it is my belief.

Q. But why do you believe it is from there and not from the Chairman's office. Or not from the General Counsel or not from the BNG.

A. Generally, it seemed to me that it was the most likely source for the information. That quite often I suppose it would be contrary to the position taken by other offices. I don't know anybody else operates, but I don't give advice in one matter and then, or any advice that I don't believe it. If I have a position, I feel obligated to tell the Commission and we put that out. If that position is adopted, fine. If it isn't that's all right too but I am not gonna try to embarrass the commission and I don't think any of our, most of our other employees will, by leaking out things contrary to what the Commission did.

Q. And you just believe that it is the OE.

A. I have a gut reaction if that's the way you want to put it.

Q. And on that basis you had conversation with Comm. Moody, about abolishing the OE, or making it Schedule C. Is that right.

A. I have not told you in any fashion that I had talked to Comm. Moody about making it Schedule C, or abolishing the office. I have said that I did not see any value and I have made those comments to him. As far as Schedule C is concerned I said to members of the staff when I first went with the Commission we wondered why these two positions are not Schedule C when the other Commission

heads are schedule C. Now, it is entirely possible that I also mentioned that to Commissioner Moody. I don't recall that specifically. But I do wonder.

Q. Let's focus on that. Did you ever make a recommendation or have a discussion with Comm. Moody about doing something about the OE.

A. I have never had any recommendation at all in any action that should be taken with respect to the OE, no, sir.

Q. Have you ever discussed with them that you considered the OE the source of the leaks that were embarrassing the Commission?

A. Sure.

Q. And did you discuss with them what you could do about it?

A. My impression is that there is nothing we can do about it—

Q. Did you discuss with him what you could do about it?

A. In exactly the manner in which I am telling you about it, that I don't think there is anything that can be done about it. And I wrote that it was certain that he would probably feel the same way. That it is something that we have simply got to live with, that's all.

Q. Well, if you get rid of the people, wouldn't you get rid of the problem?

A. How, you gonna get rid of the people?

Q. By making these Schedule C jobs.

A. Well there is only one job you could make Schedule C. That would be the top job. That could get rid of at most one person and certainly I am not suggesting that one person or even that that one person who occupies the job is the source of the leak. I am not prepared to say, even on a basis of a gut reaction that the department head is the source. But my own gut reaction is that the department is a source. There is no way to eliminate that with a Schedule C.

Q. Who do you think is the source of the leaks anyway?

A. I don't have any idea that there is just one and I am not going to get in the position of naming people.

Q. Did you discuss with Comm. Moody that if the head of the Office was a Schedule C appointee you would have better control over the OE?

A. I don't really recall. I do think now that you mentioned it that that would have to be true to a very limited extent. It would have to be true to some extent because you would hope to have more policy input from that person if it was Schedule C. The person who then would occupy that job would have been selected by the present Commission. Surely, you would, I don't know about, you wouldn't have any better control as such.

Q. I understand what you've said and I've heard your analysis of the reasons indicating agreement and indicating disagreement with hypothesis but the question to you was did you discuss that with Comm. Moody?

A. As I told you, to the best of my knowledge, no. Any discussion with Comm. Moody, I believe, would have just been along the lines that it is just a situation which exists and there is absolutely nothing we could do about it. Wish, but we would just waste time sitting wishing. We've got other things to do besides that.

Q. You started out saying you never discussed it in a serious manner with Comm. Moody whether to abolish the office or making the job Schedule C. Now tell me to what extent you had a discussion along those lines with Commissioner Moody?

A. I indicated to you that I had said from time to time to Comm. Moody that I questioned the value of what we were getting out of this office.

Q. Did he concur with you?

A. Many times you talk with him and he is kind of like a sponge in some respects. He soaks up what's said and he gives no reaction at all. He would be a heck of a man to play poker with. At times I am sure he was exasperated also and probably shared the views that things were being leaked there but along those lines as far as making it a Schedule C is concerned I think that I have probably, although I can't tell you absolutely, that I have probably related to him the same story that I generally related to you that there are only the two positions that are not schedule C and I wondered why this ever came about in the first place. And I do wonder why.

Q. Did you ever discuss with Mr. Maxson about abolishing the job and making it Schedule C?

A. No.

Q. Who on the staff have you discussed it with?

A. Abolishing the job or making it Schedule C?

Q. One or both, not either.

A. Not anybody I know of. As I said I readily admit that I question its value and I am sure that I have set down with friends of mine at lunch and other places after a newspaper article has appeared and things like that and said you know they struck again or something like that and I wonder what value we are getting from this and you know it is a sad situation when you have to have this condition. But as far as recommendation, as far as any discussions with anybody who would be in any position to affect such a change as that, I have not had any discussions like this. Sure, I have become exasperated and I have become exasperated with a lot of things.

Q. Do you believe that the investigation taking place by this Subcommittee is a result of a leak by the OE?

A. On these newspapers?

Q. On document destruction.

A. I don't personally believe that it is.

Q. Do you think there was something wrong with the OE leaking that if in fact they did?

A. I haven't commented on the rightness or wrongness of it. These papers documents, were obtained with a promise of confidentiality and as I indicated to you before Comm., uh, Chairman Nassikas, Gordon Gooch are men of the absolute highest integrity. I like to feel that I fit in with that mold and it bothers me when you make a promise. When you obtain information on one basis and then you can't deliver. Now as far as confidentiality is concerned, when I tell you that I obtained information on a confidential basis, I—

Q. I don't want to interrupt you but I want an answer to the question. The question—

A. Do I think it's wrong.

Q. Right.

A. Sure and I am trying to tell you why I think it's wrong. If I tell you I've gotten something from you on a confidential basis, I don't think that I should reveal that to my wife, my children, my secretary, my co-workers or anybody else. Any further than it needs to be.

Q. Now assuming hypothetically that the OE leaked the fact that the document destruction was resulted in this investigation, are you telling me that you think it was wrong for the OE to leak the fact that federal records were destroyed by an FPC employee. Is that what you're saying.

A. Federal records were not destroyed by anybody from the FPC and if anybody leaked that information to you. First of all that information was erroneous. There was a "attempted" destruction. The documents themselves were not destroyed as I understand it. But yes I do, right or wrong, you may not understand this because you may not operate in the same fashion as I do, but whether my employer is right or wrong I owe him an allegiance and I will give it to him.

Q. Do you think that the attempt by Mr. Mangen to destroy the documents was right or wrong?

A. As far as—

Q. Will you quarrel with the proposition that Mr. Mangen attempted to destroy documents.

A. I think Mr. Mangen has probably admitted that he attempted to destroy the documents and to the best of my knowledge, I think that his basis was that in past times such documents had been submitted on the basis that they were to be kept confidential; that on request of the parties supplying those they were told the documents will either be returned to you and some of them at that stage say well rather than returning them to us and putting them in the mail or in whatever manner you want to return them, destroy them. And he was following what had been done before.

Q. You think that is right or wrong?

A. I think it is perfectly fine.

Q. As I understand it, you think the action taken by Mr. Mangen was correct essentially because the documents were obtained under order of confidentiality by the Federal Power Commission, is that right?

A. I think the action taken by Mr. Mangen was not wrong. I think it was perhaps negligent or careless.

Q. Do you think it was right?

A. I did not say that I think it was wrong.

Q. Do you think it was right?

A. [Continuing.] I would find personally no fault with Mr. Mangen. I think he was conscientiously doing what he felt that he should do based upon past

practices that were there. Now, Mr. Mangen, nor myself, for that matter, are politically sensitive. Both of us are extremely naive when it comes to this type of thing. In the same situation, I would have had no misgivings personally about doing what he did, but in retrospect, now, knowing what we know now, I would not do it again.

Q. Do you think what he did was right?

A. At that stage, as I've indicated, I certainly don't think it was wrong in any fashion, and the—

Q. Answer yes or no—do you think what he did was right?

A. Well, the opposite of wrong is obviously right. It, under all the circumstances, I can find no fault with him.

Q. Do you think it was right?

A. Yes, under those circumstances and his knowledge at that time, his being politically naive. After the incident had occurred and after all this furore, I don't think it would be right to do it again.

Q. Well, why do you think it was right when he did it the first time?

A. Well, hopefully, it had been done before. Similar type information had been supplied on a confidential basis. Companies had requested either that it be returned or that it be destroyed and many of them said, "Destroy it." It had *been* done. No question had been raised in connection with this—it was confidential and it could not be divulged, in our view. In my own personal view, I'm saying that that was right at that time. I would have thought that the integrity of this government would have demanded that that be kept confidential. I would have thought that the Freedom of Information Act and the Federal Power Act would have demanded this. Now, this question has been brought in issue. The Congress says, "No." I haven't focused on that before. I really haven't focused on that clearly right now, but I do know that I wouldn't do the same thing again. But at the time that it was done, I would not have questioned it.

Q. Would you not do it again because now you think it's wrong or you just think because you'd get a lot of flak raised by Congress if it was tried again?

A. Primarily, right now, I have not determined in my own mind whether it is right or wrong. If, in fact, the Freedom of Information Act and the Federal Power Act had not intended to protect this type of thing, then I think that the industry that we regulate has been misled. I think that's wrong. Ah, you—the Congress, obviously has a right to the information. They could have subpoenaed this information, as we could have. If we had obtained this information on a different basis—if he had had to go through a proceeding to obtain it or anything of this type, I'd have a different attitude towards it. But people relying on the word of their government, representatives of their government, right or wrong, supplied information that they were not required at that time to supply. They may have subsequently been put in a position to furnish it.

Q. That was an order of the Federal Power Commission, Mr. Allen.

A. Requesting it—requesting it. They were asked to submit that information and they were asked to submit it on the basis that it would be confidential. Now, had these parties known, had they been put on fair notice—I don't think due process was afforded to them, they never had the chance to test whether or not it could have been *kept* confidential. Knowing those ground rules and under a different set of ground rules, the evolution of this law—if it is law—I would not destroy the documents again. As a matter of fact, personally I would never recommend to the Commission that it ever extend in *any* order the policy of confidentiality of *anything*. My recommendation would be that you just tell the public that we will get whatever information we can that you want to supply that is public. Anything else we need we'll go and get in the best way we can. If the courts won't order us to get it, we just won't get it. I would not go that route again. I think that is wrong, in my judgment.

Q. So, if you head up the Bureau of Natural Gas, are you going to recommend that trade secret type data and reserve information and geological and geophysical data, and lease drilling and lease bid data—not be obtained by the Federal Power Commission, is that what you're telling me—because that information might have to be released to somebody someday?

A. Now, that is, as you know, in *no* fashion, implied by my previous answer. I said that I would not issue an order promising confidentiality of that and ask it, but I would seek it in a different fashion.

Q. But if you don't promise confidentiality, how are you going to get it? I mean, you're not suggesting that the Commission should get it and make it public? Should they get it and keep it for internal use?

A. Then, I will recommend without hesitation and without variance that the parties be given the due process opportunity before any information is brought forth under it and to know whether it is subject to being made public or not. And if we can't get the information on a voluntary basis on the understanding that it might be made public, then we might have to take other means to get the information. That in *no* fashion implies that we would not go after the information, but we would not go after it by promising that it was to be kept confidential when we can't follow through on that promise.

Q. Are you aware that R-405 was a rule-making proceeding?

A. Yes.

Q. Pursuant to powers invested in the Power Commission under the Natural Gas Act and the Federal Power Act?

A. Yes, I am.

Q. And that the Federal Power Commission issued, not a request, but the Federal Power Commission issued an order requiring the production of that data by 79 companies?

A. They issued an order requiring that on the condition that the data be kept confidential. It was spelled out in the order. And I'm saying that I would not recommend that such an order be issued again.

Q. The order says "shall be maintained confidential?"

A. Yes, sir.

Q. Do you think what Mr. Mangen did was legal—the Commission order said, "shall be maintained?"

A. That is a debatable question. Someone might well argue that his action is illegal, and ah—I'm not prepared to pass judgment on that right now. "Maintaining" data in a confidential status does not necessarily imply to me that it is to be physically maintained. The best way for me to keep something confidential is to forget it; the best way for me to keep a document confidential is to destroy it and then forget it, in my judgment. But, in the future, my recommendation certainly would be that we don't hold out that promise. Then nobody's going to be misled.

Q. So, as I understand it, you believe that notwithstanding the questionable nature of the action taken by Mr. Mangen, and you're not prepared to pass final judgment on it, it was wrong for the Office of Economics to leak, if they in fact leaked to the Congress the fact that information requested by the Congress had almost been destroyed?

A. We are going through what I consider to be a national disgrace, with respect to the Watergate, with respect to bugging of the offices of one political party at the hands of another. I think that action is despicable. I don't see any real difference, except in degree, between in a situation such as this, if it does obtain. I don't see any kind of distinction between, in effect, having a spy for anybody in somebody else's organization, for one motor company to have it in the other's.

Q. Who is the Office of Economics spying for?

A. If they're leaking information, they're obviously working with someone else. Now, I think there are ways to get whatever you want—direct ways. And as I say, personally, to me, I just don't see the difference.

Q. I'm just trying to understand, and I'm saying that I'm agreeing with you hypothetically—let's say that the Congress first found out about the attempted destruction because it was leaked by the Office of Economics. I'm trying to point out, and tell me, I'm right, am I not, in believing that such action by the Office of Economics was wrong, is that right?

A. If the Office of Economics or anyone else who leaked this to Congress—I would think that if I leaked information to Congress, if I leaked information to the newspaper, if I leaked information to the President of the United States, that I would be wrong in doing that. There are ways to make my views known in a public and honorable fashion, and if they are not accepted, I may have to live with the fact that they're not made public for a while and hope for a change. But I would personally think it would be wrong for me to do it, sure, for me to do it, it would be.

Q. You said you were very loyal to your employer. I take it, you meant Chairman Nassikus and Commissioner Moody—is that who you meant by "being very loyal to your employer?"

A. The Federal Power Commission—the Commission—the four or five man Commission, and I hope that I have not done anything to embarrass them as employers, and I hope that I don't.

Q. You consider your responsibility to the five Commissioners in the Power Commission as alone? Do you remember your oath of Office as to who you're really responsible to?

A. To the best of my knowledge, I don't recall an oath of office, but there may have been one. If I understand it, it was to uphold—would be to uphold the Constitution and the laws of the United States. Now, it—

Q. Laws—let me stress “laws.”

A. Yes, that's what it said—“laws.” Now, I know of no law in the United States—now, if the Congress wishes to enact one, I will obviously abide by it—but I know of no law within this nation which says that I am to go into the offices of the Federal Power Commission or anyone else, take information gained there, and report it elsewhere. Now, if there is such a law indicated to me, then I will gladly abide by it. The Constitution also requires due process, and that is exactly why in my view I would be upholding that Constitution in not holding out a promise to people, as I indicated earlier, that we will obtain information and maintain it on a confidential basis and then give it up, have to surrender it. I just couldn't recommend that action.

Q. Are you aware of a federal statute prohibiting the destruction of government records?

A. I am aware that there is such a statute, yes. That, of course, brings into question the matter of possession—whether you have custody or possession, whether they were in fact U.S. government documents, or whether in fact, those documents *belonged to* the persons who supplied them. That's a question that would have to be decided. I'm not willing to accept the fact that these were government documents, if that's the question.

Q. Do you think the companies may have unilateral property rights in the documents that were in the physical custody of the Federal Power Commission?

A. If I let a police officer see my driver's license, I don't think that becomes his property, necessarily. If he confiscates it, it may become government property. If you ask for information, and I show you a document, even if I let you have custody of that document, I don't think it necessarily becomes yours as such. And, I'm not at all sure in my own mind, that this was ever government property. But, yes, I am aware that there's a law against destroying government property.

Q. Do you think that there's a reasonable basis for concluding that the documents in question were not documents in the custody or control of the United States government, but rather were documents that belonged to the companies that supplied the information? Do you really think that's a reasonable argument?

A. Not the way you just expressed it. You said that these were not in the custody or control of the United States government. I admit that they were in the *custody* of the U.S. government. But that they were the *property* of the government, I have very serious reservations, yes I do, yes, I do.

Q. Let me read to you—

A. I don't think a prisoner who is in the custody of a federal agent, for example, is property of the United States. . . .

Q. Let's take Form 15, for example. Is Form 15 the property of the United States or of the company that filed Form 15.

A. Form 15 is required. It is not provided under promise of confidentiality, there are no strings attached in the submission of those documents in any fashion. As far as I'm concerned, that is property of the United States—ah, the information is furnished with full knowledge that it is to be considered the property of the United States. The intent of the—

Q. Well, Form 15 is filed because the Commission orders it to be filed.

A. That is correct.

Q. R-405 questionnaire was filled out by each of 79 companies, some saying 0, but at least filled out, because the Commission ordered it to be filled out.

A. That is correct . . . under the mantle of confidentiality.

Q. Well, what is confidentiality in your mind? I mean, do you think confidentiality has been breached in connection with R-405 updated?

A. As far as I'm concerned the promise of confidentiality by the Federal Power Commission has been breached.

Q. To whom has the information been disclosed?

A. Apparently it has been supplied to your committee. You may have every right to get it—I don't question that at all.

Q. Has it been made available to the public?

A. It has been made available to persons other than those who requested it and who gave the promise of confidentiality.

Q. Do you think that the promise of confidentiality would apply to prohibit the Office of Economics from viewing the 79 company responses?

A. I do. I think it would apply to prohibit *me* from viewing those. We go in and do an investigation in connection with a rate case, or something like that, where our investigating team might have access, for example, to board minutes of a company or things of that type. I don't think that I have any right to that, as a person who is not a part of that investigating team. If for no other reason, the more widespread use you make of it, the less likely it is that you are going to be able to maintain confidentiality with respect to the general public. If it isn't wrong, it certainly is careless. It is not designed to maintain confidentiality—

Q. Do you consider the Office of Economics a thorn in the side of the Federal Power Commission generally?

A. Well, I don't know whether "a thorn in the side" is an appropriate term. As I mentioned earlier, I certainly question the value strictly from the point of view of—of any productivity that I've seen from them, I just haven't seen it. I question the value. I don't know whether to say it is "a thorn." It certainly is uncomfortable, if it is, in fact, and I readily admit that it was nothing more than a gut reaction on my part that they are leaking information and ah, to the press and other, and if that would be the case, and the intent of that was to embarrass the Commission, I suppose that could be considered "a thorn" as such.

Q. Do you question their professional competence?

A. [Continuing.] In some respects. Not their educational background at all. But as far as professional competence is concerned, I don't think that I can read a medical book and perform an operation; I don't think that there is any substitute for practical experience. Now, if you have someone whose entire background is in government or in academia, or someplace like this, and they have no practical experience, I think that is certainly a limiting value on the advice that they give in some respects, and whether this is true of Economics, I don't know. I don't know what their backgrounds are, but—

Q. But you say they've given nothing of value as far as you're concerned, is that right?

A. Not "nothing"—very little. As I understand it, it's a fairly large office, and I just don't see the input from it. Maybe it's there—I'm not saying that it isn't, but I just haven't seen it.

Q. Don't you consider the economic analysis of industry's structure showing high concentration and lack of competition a very valuable input into the Commission in making a judgment as to whether to allow free market forces to operate?

A. Well, it is not up to the Commission, obviously, to allow or to disallow free market forces to operate, but yes, that type of an analysis would be valuable in analysis.

Q. Haven't they given that analysis—have they rendered that analysis?

A. I really don't know. I have not seen any study to that effect that they presented to the Commission. I have not seen one. That is not to say that it doesn't exist.

Q. Mr. Allen, aren't what you're saying, what you mean to say, is that you differ philosophically with the viewpoint presented by the Office of Economics?

A. Well, certainly I differ in many, many respects, and I make no bones about that to you or anybody else. I stand up for what I believe in, and I do differ. But, by the same token, by being in an advisory capacity at all, I think that, not only a difference in viewpoint, but also, particularly when a difference in viewpoint comes from abstractions and not working with it in the real world. I differ very much from Communist philosophy, but yet if you reduce that to writing and if you look at that perfectly objectively, it sounds beautiful: everybody works together and they contribute what they can and they get what they need—beautiful! But it just doesn't work. That is an abstraction, which at least in my mind doesn't work. Therefore, I differ with the philosophy. And I question to some extent the value of advice that is given only on the basis of an abstraction. Now, I seriously tell you that I don't know whether that is the situation or not. I really don't know what their backgrounds are.

Q. Why do you consider yourself competent to hold the job you now have, considering your lack of background in the natural gas area inside the industry?

A. First of all, the job involves considerably more than just the natural gas industry. There is, of course, the management function with respect to the various employees in an office, and I do have considerable experience along those

lines. As far as the industry is concerned, I do think that knowledge and experience gained is to a large extent transferable. You will work as an attorney for this Committee. That does not say that you will be unqualified to try cases when you get out of here. You are going to gain experience that is, in fact, transferable. There is no industry or no field, at least in my view, that is so isolated that you must be brought up in that field and that field alone and your expertise in other areas may not be transferred. Now, I have been in the utility industry, related fields, for almost twenty years. I feel qualified.

Q. Is that because you think the philosophy you have is transferable to different situations?

A. Well, not only philosophy. The experience, gained, the knowledge, of the businesses that we operate, the knowledge of the problems—the problems in the electric industry and in the gas industry are somewhat similar. They're both regulated; they're both regulated essentially under the same principles, and I think those things are transferable, sure. I think, philosophy-wise, I—fits in with my philosophy, which, briefly stated is, I firmly believe in the free enterprise system. I recognize that utilities do enjoy a position of a natural monopoly and I think that they *must* be regulated if they are indeed utilities. I think that regulation in the public interest has to be with a philosophy in view towards maximizing service to the general public, to providing them with what they wish.

Q. Are you familiar with the testimony of Chairman Nassikus before this Subcommittee, telling this Subcommittee he is absolutely enraged by the action taken by Mr. Mangen, that it was wrong, and in his view, his order required that the documents be retained, particularly since they had been requested by this subcommittee in March of this year?

A. I read that transcript and I think I would have to say that I was familiar with that, yes.

Q. I take it you disagree with the Chairman?

A. If the facts were as they're laid out there, if there were a situation where I believe that Mr. Mangen was aware that you had requested those documents and that you had a right to those documents and that he deliberately attempted to destroy those for the sole purpose of preventing you from gaining access to that which you had every right to have access to, then I think it would be wrong. As far as the Chairman is concerned, the Chairman is an ultra-careful man in this respect, and he would never have *anything* destroyed. His sense of integrity is so very strong that he would never destroy anything along these lines. Now, his values and mine are perhaps somewhat different along these lines.

Q. Do you agree or disagree with him?

A. If it develops that the reason was to prevent you from getting the information that you had a right to, then I obviously would think it was wrong, but I don't know what the reason is.

Q. That was not the basis of the Chairman's statement. Let's assume that the documents were not destroyed for the purpose of preventing us from getting them. If that's the case would you then disagree with the Chairman?

A. —.

Q. Let me read you what he said. He said: ". . . in fact I supplied a memorandum to you [meaning Chairman Hart] that although at this time Allpoint's (?) memo was clearly understood by all Departments Head, particularly those with any information of this kind that is to be retained, that it is not to be destroyed, and it is to be made available. And I say this, although this is not necessary, that regardless of whether this Committee had requested this information, this would be the rule. But, I say, when a Subcommittee of the Congress requests data, and we state in a response that the data is confidential, then certainly our staff should take heed of that and should be doubly certain that nothing should be destroyed." So, he doesn't believe it ought to be destroyed regardless. He's doubly certain of that if Congress requests.

A. Yes. At *this* stage, I would certainly say that. Looking back, if Mr. Mangen was unaware of any policy requiring this, if he was unaware you had any right to this, if indeed you do have a right to it, and if he was following through, and I believe he was, with the policy that was established in prior times, or at least the practice that had been established, and if he was unaware of any change in that, I cannot condemn that man, personally, and if that means disagreeing with the Chairman, then I would disagree with the Chairman. . . . But these are the facts.

Q. Based upon the knowledge you have today, now looking back in hindsight with that knowledge, do you think the documents should have been attempted to be destroyed?

A. Looking back today, ah—let me answer that by putting it just a little bit differently. In the future, I don't think any further ones should be destroyed. I would recognize today that which would not have occurred to me sometime ago and that is that you possibly can make a claim of legal right to those documents. Now, at the time this is alleged to have taken place, I think I would have been pretty firmly of the view that you had absolutely no right to that—that is, if anybody challenges, perhaps the Court will one day decide whether you can override the confidentiality provisions of the Natural Gas Act and the promise of confidentiality extended by a Commission order. In fact, you can't. If you have that right, or if that right is brought into question, I don't think we have any right to destroy documents to prevent you from reading them, obviously.

Q. All right. And if, in fact, we have no right to those documents, and if in fact tomorrow the Supreme Court of the United States says, "Sorry, Congress. The FPC issues an order and that order says, 'Documents shall be maintained in confidential status,' then you can never get it." And if that happens, do you think then it's proper and appropriate for officials of the Power Commission, i.e., Mr. Mangen, to *then* destroy the documents obtained?

A. I would see nothing wrong personally with destroying those documents if they were presented to the Commission under the cover of confidentiality, particularly when it had been the practice—well, let me back up on that. I don't think it's wrong for any agency of government to receive a document and return it to its owner, to take custody of it and return it. If, instead of having it returned, that owner says, "You don't need to go to all that trouble. Just destroy the thing, we trust you to destroy it," I would see nothing wrong with that personally. I wouldn't. And I think that that's a positive understanding. I suppose the Internal Revenue, each year, must destroy old tax returns that are filed by individuals. I don't see how they could possibly store all that stuff forever, and I don't know whether Congress is authorized to get it.

Q. I have no further questions. Thank you very much. Do you have anything you would like to add to your statement?

A. No (?) Inaudible.

Q. Let the record show that the time is approximately 4:40 P.M. And, Mr. Allen, because this is a preliminary Subcommittee investigation at this time and because the identity of all the interviewees is not yet fully determined, and because the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are requested not to discuss the substance of this interview with anyone, other than your own personal attorney.

A. Now, is that a matter of law, that I'm being commanded to this effect?

Q. You're requested not to discuss the substance of this interview with anyone other than you own personal attorney, because of the fact that it's a preliminary Subcommittee investigation, because the identity of all the interviewees is not yet fully determined and the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews. If you proceed to discuss this matter and this information becomes available, potential witnesses find out as to what transpired here, that act may or may not impede the Subcommittee's investigation. It can only be determined after the fact whether such actions impeded or obstructed the investigation. We have no way of knowing it now, and we therefore request that you accede to these rules—

A. As a matter of courtesy, you want me to accede to these rules. That's all I was asking, is what the authority is and I prefer to abide by that.

Q. By request, to make sure that the Subcommittee's investigation is not impeded or obstructed.

A. So you are asking me to extend to you all the testimony that I have given here this afternoon on a confidential basis, and I agree.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY STAFF INTERVIEW WITH WILLIAM DIENER, AUGUST 2, 1973

Let the record reflect that this interview is being recorded. Present are William P. Diener, Charles Bangert, and Bernard Nash. The time is now approximately 9:45 A.M.

Mr. Diener, since the nature of the conduct being investigated may amount to violations of one or more federal laws, we believe it only proper that you be advised of your rights.

You have the right to remain silent, to refuse to answer any questions you feel may tend to incriminate you. Anything you do say may be used in any other proceeding. You have the right to have counsel of your choice with you during questioning and the right to talk to him for advice before we ask you any questions and before you answer any questions. If you desire to answer questions now, without a lawyer present, you will still have the right to stop answering at any time. You will also have the right to stop answering at any time until you talk to a lawyer.

Let me show you the form I was reading from. Take as much time as you like to consider it, and if you agree to be interviewed under these conditions, please sign it—

A. May I ask for further clarification: "voluntarily waive" what rights?

Q. Your right to remain silent, your right not to answer any questions, your right not to have a lawyer present with you, which means in effect, that you're agreeing to be interviewed now. You could always interpose at any time any of the rights you have and stop the interview. That's what it means. If you feel more confident by striking out any word, or making any changes in it that you want feel free to do so.

A. I don't want to voluntarily waive these rights because I may choose to exercise them during the course of the interview.

Q. Sure. You may exercise them at any point in time you wish. Feel free to make whatever modifications to that you want, and when you finish, just let us know if you want to proceed to answer questions or not. You're not compelled to do so.

A. —

Q. Have you read?

A. I have read this form, to which I have now put my name and the date, August 2, and signed. I have modified the third full paragraph in the form to read as follows:

I have read and understand my rights and do not waive them, but I agree to be interviewed, subject to my right to raise such objections during the course of this interview.

And I have initialed the modified changes to this form.

Q. Let the record show that the words "voluntarily" were stricken and the words "do not" were placed in the place of "voluntarily"; a comma was added after the word "them," the word "and" was deleted; and the words "but I" were substituted for "and"; a comma was placed after "interviewed" instead of a period; and the following words were added after the comma: "subject to my right to raise such objections during the course of this interview." Now, you do realize, do you not, Mr. Diener, some of your rights, which you explicitly state you do not waive, include the right not to be interviewed here and not to answer any questions, and I take it that with regard to those rights—

A. The modifications intended that I do agree to the interview, but subject to raising any objections or exercising any rights during the course of the interview that I may elect to do so.

Q. Fine. Thank you.

A. If you wish any modification made to that, I'll be happy to do that, but that is the gist of what I'm trying to accomplish by the modifications.

Q. As long as the record is correct that you agree voluntarily to be present at the interview and to respond to questions at the interview, notwithstanding. Including among your rights is the right not to do that.

A. That's understood.

Q. The record should also note that the second paragraph of the statement indicates, and I hope you understand it, that if you desire to answer questions now without a lawyer present, you will still have the right to stop answering at any time.

A. I understand.

Q. Would you state your name and address for the record?

A. My name is William Paul Diener, my home address is 8613 Ardfour Lane, Annandale, Virginia. My office address is the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C.

Q. Mr. Diener, we will ask you a series of questions and we want you to understand that there is no basis for accusation or innuendo or prejudgment intended. It is only a means of eliciting information from all witnesses and from obtaining necessary background information to evaluate all of the circumstances involved.

Mr. Diener, you were asked to bring with you all writings of any nature whatsoever, either draft or final, including diaries, logs, and records of telephone conversations referring or relating to use, release, or disposition of documents involved in the attempted destruction. Have you complied with that request?

A. I have.

Q. How did you go about complying with that request?

A. I reviewed all files within my office and under my care, and have brought with me today all written memoranda which I believe reflect the scope of this inquiry, and I so offer or tender them for the record here.

Q. The request, you might recall, was for all writings of any nature whatsoever, whether draft or final, including diaries, logs, and records of telephone conversations.

A. I do not maintain any telephone logs and I have reviewed my calendar for notes which reflect on the scope of this inquiry and found none. The documents that I have with me today reflect, to the best of my knowledge, full compliance with the scope of this interview.

Q. What do you limit the scope of this interview to, in connection with the search of your files for producing documents?

A. Any documents which would directly or indirectly have anything to do with the attempted destruction of certain documents submitted to the care of the staff of the Federal Power Commission in connection with its second uncommitted reserves study in Commission Docket #R-405.

Q. Let me read to you from the same document that I read to you over the phone when I spoke to you, asking you to come here, which the record will reflect when it gets printed was the same request made of each of the prior witnesses: "All writings of any nature whatsoever, whether draft or final, including diaries, logs, and records of telephone conversations, referring or relating to use, release, or disposition of the documents involved in the alleged attempted destruction." So the request wanted whatever documents were available "referring or relating to use, release, or disposition of documents."

A. Yes, I understand that. And these documents reflect anything that I have in my possession or any drafts that I'm aware of.

Q. Would they include in your mind any writings that are contained in your office setting forth the scope or dissemination of the writings?

A. Any writings that I have? Yes, it would.

Q. And would it encompass any writings referring or relating to release of the documents to anybody?

A. Yes, it would.

Q. And would it include any writings referring or relating to disposition of the documents?

A. Yes, it would.

Q. The reason I went back over it was because your statement indicated you were producing documents directly or indirectly relating to the destruction of the documents, and our request was far broader than that.

A. I understand the request and my response was meant to cover the documents which I found to be relative to the request, not the total scope of the request.

Q. OK. Maybe if you could just tender the documents.

A. All right.

Q. While giving a brief description of each, you know, like, maybe the writer, the recipient, the date.

A. I herein tender the following documents, submitted in compliance with this request:

Item #1: Memorandum to William P. Diener from Executive Director, dated June 20, 1973; and I am paraphrasing, wherein the Executive Director has asked me to furnish him, by June 20, 1973: all memoranda, letters, notes for the files, notes of telephone or other conversations, or other papers or records relating directly or indirectly to the delivery of these confidential filings from the companies by the Bureau of Natural Gas to the Office of Administrative Operations for destruction.

The request related to Docket #R-405.

Q. That will be marked: Diener Exhibit One."

A. And on Exhibit One, I have a handwritten notation that I made which states: "Telephonic reply, 6/21/73." While not on this document, that telephonic reply was that I had complied with this request of the Executive Director to deliver all such documents. There were none delivered because there were none that I had in my possession.

Item #2: Copy of a letter dated July 11, 1973, from William P. Diener, to the Hon. Philip A. Hart, Chairman of the Subcommittee on Antitrust and Monopoly. This is a three-page letter which generally asks that this letter be incorporated as a supplemental part of the record of the hearings before that Subcommittee on June 26, 1973, in response to memoranda written by myself while in the employ of the Federal Trade Commission, which was introduced at that hearing.

Q. That will be marked: "Diener Exhibit Two."

A. I have a memorandum written to the Chairman of the Federal Power Commission from the Executive Director of the Federal Power Commission, dated June 25, 1973. Subject: Internal Memoranda and Papers relating to the Commission's order of September 12, 1972 in Docket R-405. This is a five-page memoranda which identifies 33 separate memoranda or papers. These were submitted at the June 26, 1973, hearings before the Subcommittee on Antitrust and Monopoly.

Q. That will be marked: "Diener Exhibit Three."

A. The memoranda dated June 25, 1973, to the Chairman of the Federal Power Commission from the Executive Director. Subject: Public Documents and Correspondence relating to Staff Uncommitted Reserve Study in Docket #R-405. A three-page memorandum identifying 22 separate public documents and correspondence which were delivered at the June 26, 1973, hearing before the Subcommittee on Antitrust and Monopoly.

Q. That will be marked: "Diener Exhibit Four."

A. I have a June 25, 1973, Report from the Executive Director to the Chairman of the Federal Power Commission. Attached thereto is a copy of the Executive Director's investigation of the instruction given to the Office Administrative Operation to destroy records containing confidential gas reserves information collected from producers under the Commission, September 12, 1972, Order Updating Nationwide Investigation, Docket #R-405, plus sundry attachments thereto.

Q. This will be marked: "Diener Exhibit Five."

A. I have a copy of the Commission's Order issued June 22, 1973, in Docket #R-405, entitled Order of Modification to authorize compliance with Congressional subpoena duces tecum.

Q. That will be marked: "Diener Exhibit Six."

A. A copy of a letter dated June 18, 1973, from Chairman Nassikus to Senator Hart, which, in essence, indicates that the Federal Power Commission, in compliance with its orders in R-405 could not comply with Senator Hart's request of May 18, 1973, to release underlying individual uncommitted reserve data to him, to Senator Hart.

Q. That will be marked: "Diener Exhibit Seven."

A. A letter of June 14, 1973, from Chairman Nassikus to Senator Hart concerning procedures to be followed in investigation of Federal Power Commission employees concerning attempted destruction of certain uncommitted natural gas reserve data.

Q. That will be marked: "Diener Exhibit Eight."

A. A letter to Senator Hart from Chairman Nassikus, dated June 12, 1973, again concerning procedures to be used in the interview by the Senate Subcommittee Staff of Federal Power Commission employees concerning destruction of documents in the Uncommitted Reserves Study.

Q. Diener Exhibit Nine.

A. I have a letter of June 11, 1973, to Chairman Nassikus from Senator Hart, referring to a newspaper article concerning destruction of documents submitted in Docket #R-405.

Q. Diener Exhibit Ten.

A. I have a letter of May 18, 1973, from Senator Hart to Chairman Nassikus requesting that Chairman Nassikus appear before the Subcommittee to testify on the nature and extent of competition and concentration in the natural gas industry on June 6, 1973. There are handwritten notes of mine in pencil on the document indicating that the date of that hearing was changed to June 26, 1973, and various underlinings in pencil that I have indicated thereon.

Q. Diener Exhibit Eleven.

A. I have a letter dated March 20, 1973, to Senator Hart from Mr. Thomas J. Joyee, Chief, Bureau of Natural Gas of the Federal Power Commission replying to an inquiry of Senator Hart of March 7, 1973, and attached thereto is that inquiry of Senator Hart of March 7, 1973, addressed to Chairman Nassikus of the Federal Power Commission.

Q. Diener Exhibit Twelve.

A. I have a Commission Order in Docket #R-405 issued Nov. 4, 1970, and attached thereto is a Report dated March 8, 1971, to Kenneth Plum, Secretary of

the Federal Power Commission concerning uncommitted reserve data and the attached form in Docket #R-405 in that time period. There's also noted on the top on the first page of that order the Federal Power Commission Report Side (?) to that order.

Q. *Diener Exhibit Thirteen.*

A. I have an *order dated September 12, 1972, in Docket #R-405 updating the nationwide investigation* issued by the Federal Power Commission with accompanying appendices thereto.

Q. *Diener Exhibit Fourteen.*

A. I have a *Federal Power Commission news release # 19013 dated February 22, 1973*, concerning the staff report on uncommitted natural gas reserves for the periods ending December 31, 1971, and June 30, 1972, and attached to that, a memoranda from the Chief of the Bureau of Natural Gas dated February 9, 1972, to the Commission concerning that staff report and the results thereof.

Q. It will be marked : *"Diener Exhibit Fifteen."*

A. And that concludes the written documents which I have brought for compliance with this interview, ~~and to the best of my knowledge~~ that satisfied—that is my compliance with it.

Q. Can you state for the record whether you have reviewed for the purpose of complying with the request for documents, copies of notes taken at Commission meetings, copies of minutes or agendas of Commission meetings to ascertain whether any of such material falls within the document production request?

A. I have reviewed my notes in that regard, yes, on my recollections and written notes for several Commission meetings which this subject matter may have been a part of, yes.

Q. And nothing, there's nothing on any Commission minutes or agendas of Commission meetings or your handwritten or anyone else's handwritten notes thereon relating to the use, release, or disposition?

A. There's none that are in my possession that I have any notes made by myself or any that I've seen made by anyone else.

Q. Are you aware of any such Commission minutes, Commission agenda, or notes of Commission meetings made by anyone in the possession, custody or control of anyone else relating to this subject matter?

A. To the best of my knowledge, no, but the breadth of that question—I can't speak for anyone else.

Q. No, I'm only asking to your knowledge?

A. To my knowledge, no.

Q. Do you know whether this matter ever appeared on a Commission agenda?

A. Which matter?

Q. The matter of, either any or all of Senator Hart's requests pertaining to R-405, any or all of the internal Commission discussion in response to Senator Hart, or the matter of FPC action after FPC learned of the attempted destruction by Mr. Mangen?

A. Yes. And to the best of my knowledge, the only thing that I can recall that was on a Commission agenda or would be reflected in Commission minutes would be the June 22 order, which I have surrendered here, which order authorizes the Chairman of the Federal Power Commission to comply with the subpoena duces tecum.

Q. And, I might be wrong, and if I'm wrong, the record ultimately shall so note, but my recollection is that in compliance with the Subcommittee subpoena, we did not receive copies of any of the Commission agenda or copies of any Commission minutes or copies of any Commission notes made contemporaneously with or subsequent to Commission meetings. Now, I'm saying that because (1) my recollection might be wrong; (2) conceivably, none of this exists. Now, I don't know, but—

A. To the best of my knowledge, there were no—there was no Commission agenda or minutes which reflected compliance with the request by Senator Hart—and I believe it was contained in his May 11 letter concerning the attempted destruction of these documents. Now, the only thing I can recall which was a part of a Commission agenda was the order which authorized the Chairman of the Federal Power Commission to comply with the subpoena duces tecum.

Q. Could you supply a copy of that agenda or minute to us in due course?

A. The Commission minute or agenda . . . well, let me go back and say that this was not part of a regular Commission meeting. However, the Commission did formally act and offer an issue in that June 22 order. There is no Commission agenda which will identify that that order was presented to the Commission for consideration, nor are there any written memoranda that I'm aware of which

were written recommending the issuance of such an order, but it was a formal Commission action and whether or not the secretary of the Federal Power Commission, who prepares minutes of meetings, will reflect anything other than the issuance of that order on June 22, I am not aware of.

Q. Could you tell me how the Commission meetings work: who attends, who takes notes, what happens to the notes? There must be a lot of items taken up and someone must take notes of what's going on so they can carry out what the decisions are in these respects, is that right?

A. Normal Commission meetings—normally these are held weekly. Normally they will involve the consideration of some, usually, 60 to 100 items requiring Commission action. These—the Commission, then, in the orderly process of the agenda prepared of those how-many-odd items there are that week, decides on what action will be taken on each of those. To the extent that there are key staff members normally present at such Commission meetings, besides the Commissioners, ah—such staff members may or may not take notes. I, myself, take notes indicating what action was taken, because normally—very often, something will not be voted on and will require further consideration. I simply indicate what further consideration, what the issue is, requiring further consideration.

Now, the June 22 order, which is the only one I'm aware of, was not taken up. This required, as I recall, something in the nature of twenty-four hour compliance with the subpoena, or something. This was taken up at a Commission meeting, but not at the traditional meeting where the entire staff was present.

Q. Do you have a secretary at the meeting taking notes of what transpired, if Mr. Joyce makes a recommendation, or if the general counsel says something, or if Mr. Wald says something, is anyone taking notes of what's going on?

A. No.

Q. Do you have a secretary attending the meeting?

A. We have a secretary of the Federal Power Commission, which indicates either an item was voted on, the vote taken; or it was not voted on and is postponed for some later date.

Q. Suppose an action is taken without a vote: does that get noted?

A. I don't know how an action could be taken without a vote.

Q. Well, let's say Mr. Joyce presents a letter saying, "I want to send this letter to Senator Hart. What do you all think?"

And they say, "OK. Send it, Tom." Would that be noted by the secretary?

A. Yes, if it was at the Commission meeting and for Commission consideration, to the best of my knowledge, it would be noted. . . . The letter you are talking about was not presented to the Commission for consideration, to the best of my knowledge.

Q. You're saying to your knowledge, the March 20 letter sent by Thomas Joyce in response to Chairman Hart's March 7 letter was *not* reviewed by the Commission?

A. To the best of my knowledge, no. The March 7 inquiry was directed to Chairman Nassikus and I believe Chairman Nassikus referred that to Mr. Joyce because it was a staff report that Senator Hart was inquiring about and Mr. Joyce was the chief operating head of the staff which prepared that report. I know I had never reviewed that response by Mr. Joyce. To the best of my knowledge, the Commission never reviewed that letter prior to his sending that.

Q. What about Chairman Nassikus, did he review it?

A. Well, Chairman Nassikus, and the other Commissioners—to the best of my knowledge, they did not review that.

Q. Well, how would you know whether Chairman Nassikus reviewed it or not?

A. I don't. I'm just saying, to the best of my knowledge, he did not. I was not in attendance with Chairman Nassikus if he did review that. To the best of my knowledge, he did not.

Q. You stressed you have weekly, formal type meetings with agenda. Now, how does the Commission handle informal types of meetings where matters come up?

A. Well, normally something requires immediate action—well, normally these are not done. Normally it's a formal meeting, but to the extent that informal meetings may be a gathering of Commissioners and particularly concerned staff and a secretary to decide on something that requires immediate action.

Q. Who would take notes at those type of meetings?

A. I'm not aware that any other notes would be taken other than what the secretary of the Federal Power Commission in attendance would indicate what action was taken that day.

Q. Well, I imagine you must attend a lot of the meetings, do you not?

A. Which meetings?

Q. Commission meetings—formal and informal.

A. I attend all Commission meetings, formal. I attend Commission meetings, informal, when I'm invited.

Q. Do you generally see Commissioners or staff sitting around with paper in front of them, taking notes, or do you see them sitting around, not taking notes?

A. There are many staff people that have paper and are writing at the Commission meeting.

Q. What about the Commissioners themselves—do they generally sit there with or without paper and with or without writing down—

A. Commissioners, generally, no. The extent that people take writing—it may be that some of the Commissioners' assistants take notes for them. Normally most of the notes are taken in response to further staff review of an item. For instance, say a Commissioner may have a question about something and he directs an inquiry to a staff member to prepare a memorandum and that staff member records what he has to prepare.

Q. [Continuing]. If an informal Commission meeting took place to discuss compliance with a Subcommittee request for documents or to discuss the matter of what's going on in the FPC with regard to these documents, would notice be taken of such discussion?

A. It could or could not.

Q. Do you think that's something that the secretary would take notes of?

A. The secretary would normally not take notes of anything other than what action was taken.

Q. Are you aware of any Commission gatherings? By that, I mean, I'm not talking in the strict sense of the Commission meetings which might have some kind of a legal connotation. I mean, one or more members of the Federal Power Commission sitting down, be it in the Commission meeting room or standing up or sitting down someplace else, to converse or otherwise communicate orally about one or more of Senator Hart's requests about the documents.

A. I was present at an informal meeting regarding—which culminated in the June 22 order authorizing compliance with the subpoena.

Q. Other than that, you're aware of no oral contact between Commissioners discussing or orally uttering words about Senator Hart's requests or about what was going on inside the Commission concerning the documents?

A. When the Chairman learned of the attempted destruction of the documents, there were numerous oral meetings held concerning that alleged destruction. These were not Commission meetings. Some or all of the Commissioners may or may not have been present at them. I was present at most of them. As far as what was happening, I was unaware of this until somewhere in the latter part of May, I would guess—somewhere in the week of Memorial Day, 1973.

Q. Did anyone take notes of these meetings, so someone would know at the end of a meeting or at the end of a series of meetings, what was going on, or did everyone just trust their memory?

A. I can't recall any notes being taken. It was a discussion of what would be done to find out what in fact had been attempted to be done, what authority those people were operating under, and what have you. I cannot recall any minutes or memoranda that I saw being written at such meetings. I know I did not write any at such meetings.

Q. It is a conscious policy of not reducing to writing any particular types of discussions?

A. No. No. Many of the discussions are oral, as they might be expected to be oral, but there is no attempt to *not* have something down in writing.

Q. No, no. I mean, I know a lot of things get done orally, and certainly it would be faster, but I mean, is there any conscious policy of not taking notes of oral discourses—

A. No.

Q. [Continuing] by or between Commissioners or staff?

A. No.

Q. It just so happens that no one takes notes?

A. In the context we're talking about many of these oral discussions that transpired after we learned of this, much of this was oral. To the best of my knowledge, all of it was oral.

Q. Right, I know that. I'm honing in on, notwithstanding it's oral, notwithstanding that—and particularly since, you say, the Commission was just as shocked as anyone else to learn about and they had a lot of contacts trying to find out what was going on, I'm just trying to press and to hone in to refresh

your recollection, whether no one was taking notes so they could file a report of what was going on?

A. At that point in time and subsequent thereto, most of the informal discussions that I was at, I never took notes and I never saw anybody else take notes.

Q. Have you, since March of this year, destroyed, or have you caused to be destroyed, any of your notes, memoranda, or any other writings relating or referring to Senator Hart's requests, the use and disposition of documents in R-405 or anything else relating to this Subcommittee inquiry?

A. In respect to the first part of your question, the answer is no. In respect to the second part of your question, I had destroyed written drafts prepared by me to assist the Chairman in his testimony of June 26, 1973, generally on the subject of concentration in the natural gas industry, if that is in response to the second part of the question. The first part of the question with respect to the R-405 destruction of documents or notes that I may have had anything to do with that document, I have never destroyed any such notes to the best of my knowledge. . . . The destruction I'm talking about is drafts prepared, which may have subsequently been reduced to writing, to the extent that something is done . . . in preparation of the testimony, June 26.

Q. I guess in a few moments we'll come back to the sequence of events and we'll try to focus specifically on each meeting, but let me get some of the preliminary questions out of the way first.

What is the present position you hold in the Federal Power Commission?

A. I'm the attorney adviser to the Chairman.

Q. How many does he have?

A. He has three now.

Q. Are you Senior Adviser?

A. Yes. Principal Legal Assistant.

Q. How long have you held that position?

A. Since January 23, 1972.

Q. What position did you hold prior thereto?

A. Prior to that I was Assistant Solicitor to the Federal Power Commission.

Q. What dates, approximately?

A. Well, I joined the Federal Power Commission April 11, 1971, as a trial attorney.

Q. What grade?

A. GS-11. And about a month later, I was a GS-12—I had previous Government employment—and then, at that time, I was made Assistant Solicitor of the Federal Power Commission—

Q. In May of 1971?

A. In May or early summer of 1971, a post I occupied until I became the Chairman's legal adviser in January 23, 1972.

Q. You're Assistant Solicitor at GS-12?

A. GS-12—you'll have to excuse me on the GS's. I'm inclined to think it was a GS-13.

Q. You started out at an 11 and got to 13?

A. No. Let me go back. I entered the Government service in June, 1970, as a trial attorney with the Federal Trade Commission, I think, at a GS-12—if not, at a GS-11. I transferred to the Federal Power Commission in April, 1971, at the same grade, and about two months later, when I completed one year of Government service, I was given a grade increase to what I believe was a GS-13. And then, in January, 1972, I transferred to—I worked for the Chairman of the Federal Power Commission.

Q. And the grade of the Chairman's office?

A. Present?

Q. No. In January, 1972?

A. Again, it was a 13, and—let's, approximately 60 days thereafter, it was a 15. In January of this year, or February of this year, it was a 17. That's my present grade, is a GS-17.

Q. Now, you say you started Government service in June of 1970, in the Federal Trade Commission, an attorney rated GS-12. Was that your first legal job after graduation from law school?

A. No. I graduated from law school in January of 1968 and passed the Indiana Bar in May of 1968. My legal education had been at night and I had full-time employment, and I stayed with that corporate employer in a non-legal job until I came to Washington in June of 1970.

Q. Who was that corporate employer?

A. Ely Lily and Company, a pharmaceutical firm in Indianapolis, Indiana, which is my home town.

Q. What was the nature of your employment there?

A. I was in the marketing department in a variety of functions. Basically, market research, market planning—it was a training program for a management position—international functions of that pharmaceutical firm. It was a non-legal nature.

Q. And in June, 1970, you commenced employment with the Federal Trade Commission, is that right?

A. That's correct.

Q. How did you first go about securing that employment?

A. Well, I went through the standard government forms. At that time, I went through a conscious choice to enter the legal profession. And a lawyer from Indianapolis, Indiana, who was appointed as a Commissioner of the Federal Trade Commission, who was either on the Trade Commission at that time, or subsequently resigned—he is no longer there—assisted me in getting that job.

Q. Who was that?

A. It was James Nicholson. I can't remember when he left the Federal Trade Commission. I do not believe he was on the Commission.

Q. Who hired you for the Trade Commission?

A. I can't remember his name.

Q. Was it the same person who Mr. Nicholson advised you to write to?

A. Yes. I cannot remember his name . . . because he is no longer there—he was there only for a short time, he was a—he was in the management area, and I can't remember it. . . . I just can't remember it. He was from California. Mr. Weinberger brought him with him, but I don't know what his name was—I can't recall. He was somewhere in the personnel area.

Q. My notes indicate that April of 1971, you moved to the Federal Power Commission as a trial attorney, is that right?

A. That's correct.

Q. Now what did you do at the Federal Trade Commission between June and April of 1970?

A. I was an attorney in their Bureau of Competition—a trial attorney handling primarily Section 7 Clayton Act responsibilities and primarily in the food industry—supermarket, food processors, and what have you.

Q. All right. Did you get involved in any energy matters?

A. Yes, I did near the tail-end of when I was getting ready to leave. My primary responsibilities were in the food area and in the Fall or Winter area of 1970, I got involved in the investigation—one of my exhibits will show the file numbers and what have you—but it had to do with the American Gas Association reserves and reporting, what have you.

Q. You say that was around the Fall or Winter of 1970?

A. Fall—around the Winter of 1970.

Q. At that point in time, in your own mind, did you know you were leaving there to go to the Federal Power Commission?

A. No, I had no idea.

Q. Well, you just testified a moment ago, that near the tail-end when you were getting ready to leave, you did some energy work.

A. By tail-end, I'm talking about Winter of 1970, because three or four months later in April, I left—that's the tail-end.

Q. Were you in charge of the AGA investigation?

A. No, I was not.

Q. Who was in charge of it?

A. At that time—there was dual responsibility that shifted back and forth between two Assistant Directors there—Owen Johnson and Harry Garfield and they were supervising, and I—to the best of my knowledge, there was myself and an economist, who at that stage were the only ones involved.

Q. Who was the chief legal man?

A. I was the only legal man. The chief legal man, again, at that stage was the Assistant Director. He did take operating responsibilities here, was more than a supervisor, I suppose.

Q. Before that, did you have any knowledge or experience in energy?

A. None whatsoever.

Q. How much time did you spend on the AGA investigation?

A. Minimal—in terms of percentage of work load . . . I would guess, less than 20% of my time. The bulk of work at that point of time was being done—it was in an embryonic stage with the economists with the planning policy evaluation function which was involved in it also. This was just groundbreaking work.

Q. Did the bulk of your work on this case consist of reviewing company documents or interviewing—

A. I never reviewed any company documents. We were making—we did interviews with certain other government agencies, certain private individuals, concerning the gas shortage generally. I never saw any documents that I recall reviewing at all—submitted by companies.

Q. Now, when did you first determine to leave the Federal Trade Commission and why?

A. Well, . . . I don't remember when I first determined to leave the Federal Trade Commission. I was not getting any trial experience although I was a trial attorney. I would guess I decided to leave in the early . . . say, February, or March, 1971, to the best of my recollection. . . . At that point in time, I was actually soliciting employment outside of Washington. I was just finishing up a Master's Degree and was ready to go into teaching, but that teaching market was saturated and law schools were declining and I didn't have much luck. So, I was looking for another job where I could do more legal work as opposed to investigatory work with no trial work.

Q. Did—when did you write your *Law Review* article on competition in the natural gas industry, which appeared, I think, in the *Tulane Law Review*?

A. That was in the *Tulane Law Review*—I can't remember when it was published. It was published more than a year after I had basically completed it. It was published when I was in the employ of the Federal Power Commission, although the manuscript had been submitted and approved when I was at the Federal Trade Commission.

Q. Did you write it before you commenced the AGA investigation or after?

A. It was after commencing the AGA investigation. This was the first time that I got involved or interested in antitrust matters in the energy field. . . .

Q. Now, you recall, I think, at the hearings, Senator Kennedy proffered a memorandum with your name on it concerning the future status of the AGA investigations. Now did you make your recommendations based upon the interviews you had with government officials?

A. Government officials and private officials—yes, I did make that recommendation.

Q. Have you since found out whether it was formally acted upon?

A. I have no idea.

Q. Before you made the recommendation, did you discuss the alternatives with the FPC policy planning people?

A. No, I did not. Well, now, wait a minute—I did discuss it with—the policy planning function I'm not sure was set up as a line function at that point in time. Ah, there was a gentleman that I think subsequently was in that function—first name, Fred; last name, I don't know—who I did discuss it with, as well as an economist and as well as the assistant director of the Bureau of Competition.

Q. Was it Fred Woodworth?

A. Yes, Fred Woodworth.

Q. Did you discuss it with Larry Myers?

A. No, I did not.

Q. Do you know Larry Myers?

A. Yes, and I believe he was working for a Commissioner at that point in time. I don't think he was director of that policy planning section, but he was subsequently; but he may have been.

Q. Did Fred Woodworth indicate his concurrence with what you told him about your views concerning the future of the investigation?

A. To the best of my knowledge—I can't even say to the best of my knowledge, because I don't recall what his recommendations or feelings were.

Q. Before you prepared in writing your recommendation, did you discuss with anybody what your feeling was?

A. Yes. I did discuss it with Owen Johnson—assistant director of the Bureau at that time.

Q. And what kind of a reaction did you get from Owen Johnson?

A. The reaction wasn't so much—the reaction at that time wasn't substantively whether or not we should proceed on antitrust violations, but the discussion was, and I recall the discussion now with Fred Woodworth, was how many people are we going to have to take off other priorities to do what should be done here, and is it worth it at this time—at this point in time. Do we have enough to go forward with this. And from the very limited interviewing that I had done, my recommendation was "No," at that time.

Q. No, do not proceed with it?

A. No, do not proceed with it.

Q. Because you didn't think you had any information?

A. I had nothing at that point in time—any evidence which would show any collusive activity among those AGA members that served in the South Louisiana Subcommittee.

Q. To obtain that evidence in an investigation, don't you usually first have to commence the investigation?

A. That's true, and I had recommended issuance of the subpoenas about a week after. . . . I started the investigation, I recommended issuance of the subpoenas, and my recommendations are in writing over there at the Federal Trade Commission somewhere.

Q. You mean, when you were assigned to the case, you recommended issuance of subpoenas, is that correct?

A. That is correct.

Q. And it was turned down?

A. I never knew what happened to them. I had prepared the subpoenas and I prepared memoranda to issue those subpoenas.

Q. Do you still have them in your possession?

A. Oh, no! They weren't mine. They weren't my memoranda—property of the Federal Trade Commission.

Q. You never got an answer from anybody as to whether they were issued or not?

A. No, because at that stage, the question was not, "Should we issue the subpoenas?" but "How many resources do we need to look into what we might get when we do issue the subpoenas?" And this was when the Fred Woodworth input came in. "What do we do—we've got an energy study, a merger study, what have you—now, how do we coordinate our resources?"

Q. What was Woodworth's reaction?

A. I don't recall ever discussing subpoenas with Woodworth.

Q. No, no—his reaction to what you had indicated your opinion was before you wrote that memo.

A. He never had any reaction, as I recall, on the law or what we should do. He just said, "How are we going to do this?" We had concentrated industry studies in a variety of fields. "Where does this fit—is this independent, or part of an energy study, or what?"

Q. I take it, then, his reaction was not to proceed with the investigation?

A. No. His reaction was more or less, something, "We'll have to take this under advisement and figure out where our resources are going to be spent." I don't think he had any reaction on the merits of the proposal.

Q. Well, was his reaction based on resource commitments that you should not proceed?

A. No, he didn't make a decision not to proceed. But his analysis, or, as I recall it, his concern, was with allocation of human resources at the Commission.

Q. OK. You had your subpoenas then, you never had an answer or any indication about it. What led you to write another memorandum recommending that the investigation be closed, then?—while your first recommendation was still up in the air?

A. There were a series of memoranda that I had written—either to Owen Johnson or Harry Garfield. And the problem was, at that point in time, we had just got started, and we were trying to figure out was there a natural gas shortage, and was it being conspired, and what have you. And the question was how to proceed, and at that point in time, we did make a decision to do some type of a—whatever you call it—a pilot investigation, only to the AGA Committee and only within that, the one Subcommittee, the South Louisiana area, and that was the limited scope of our inquiry; and to the extent that I could find nothing which would indicate to proceed further against, or through, that Subcommittee of the AGA, I thought it was a waste of time. I also questioned what the Federal Trade Commission would do if we ever got such data, recognizing the limited expertise of, let's say, geological or geophysical matters, which we didn't possess.

As I recall, the options were either to close that limited inquiry or expand it, and that was my recommendation—I didn't see anything with regard to that pilot investigation at that point in time, which would warrant any resource commitments. Now, whether or not they wanted to go the full gamut and incorporate that part into the energy study or something, Fine! I didn't have any objection to that.

Q. Well, you made your recommendation and then what happened?

A. I never heard anything more.

Q. Did you ever do any other work on that investigation, or did you then leave the Commission?

A. No, I did some investigatory work following that. . . . No. That just died. It just died at that point in time. . . . And, got considered—the scope of what we were originally working on got considered, I believe, as almost a peripheral matter of the larger energy study, which the Office of Economics was pursuing. . . . And I—apparently since then it was spun off and resurrected as an independent investigation. To the best of my knowledge took no action; the Commissioner may have never even seen my recommendations—that was it.

Q. Now, you left—started working in the Federal Power Commission at GS-12 trial attorney around April 11, 1971, as I recall?

A. Yes.

Q. When did you first determine that you were going to work with the Federal Power Commission and when did you first seek employment with the Federal Power Commission?

A. Probably around—to the best of my recollection—around February or March of that year, 1971.

Q. Now, how did you go about seeking employment with the FPC?

A. I talked to Stephen Wakefield, who was then a special assistant to the General Counsel of the Federal Power Commission.

Q. Did you get to know Mr. Wakefield because of your interview with him when you conducted the AGA investigation on behalf of the Trade Commission?

A. I got to know both Mr. Wakefield and Mr. Gooch through interviews that we had with the Federal Power Commission on how AGA reserves are used in rate cases, and what have you, and met them then.

Q. You say you "met them, yes?"

A. I met them through the interviews that we had—we had at the Federal Trade Commission with the Federal Power Commission, on how AGA reserves were used in computing producer rates and what have you, because we had no idea of where they fit in.

Q. During the course of these interviews or discussion with Mr. Gooch or Mr. Wakefield and others, was the matter of possible FPC employment by you broached?

A. Approached or broached?

Q. Broached.

A. I don't know what you mean.

Q. Well, during the course of your interviews with Mr. Wakefield, Mr. Gooch, and others, were you discussing with them concerning your AGA background work, did you enter into any oral utterances or did they enter into any oral utterances concerning possible employment at the Federal Power Commission for you?

A. No, they did not. I proceeded that independently through Mr. Wakefield, who had the hiring responsibilities for trial attorneys.

Q. Oh! During the course of your oral utterances with them concerning AGA, did [tape ran off reel—end of Reel 10, Side 1].

Commencement of reel 10, side 2 here

Q. I think when we changed the tape, we were in the middle of a question relating to your interviews and discussions with FPC personnel, particularly Mr. Gooch and Mr. Wakefield, in connection with your learning about gas matters in AGA investigation, and you answered that you didn't indicate to them that you were desirous of leaving the Federal Trade Commission or that you were desirous or would consider employment with the FPC, is that right?

Q. Did they indicate to you anything indicating that they had some positions available or that they were looking for some antitrust type attorneys?

A. No, they did not. . . . I pursued that independently with Mr. Wakefield somewhat later—by somewhat later I mean a couple of months after the FTC contacts with the FPC had closed off. This was clearly independent of the investigation.

Q. What made you decide you wanted to seek employment with the Federal Power Commission?

A. Well, I knew that at that point in time there was a great deal going on in the FPC in energy matters and I thought I could more properly benefit myself through gaining more experience there and get more legal expertise than I was presently performing in the Federal Trade Commission.

Q. Before you sought employment with the Federal Power Commission, did you indicate to the Power Commission, i.e., Mr. Gooch or Mr. Wakefield or anyone else, your views as to the merits of the Federal Trade Commission AGA investigation?

A. No, I did not.

Q. Did you indicate to them any of the doubts you had about any of the proceedings?

A. No, I did not.

Q. Well, you started work there on April 11. Now, I imagine you must have given some notice to the Federal Trade Commission, so is it fair to assess that you firmly obtained employment sometime before the middle of March?

A. March, April . . . yes, as I recall, it was probably either two weeks' or thirty days' notice which I gave them.

Q. Well, that would mean that you first sought employment probably sometime either in late February or early March, is that correct?

A. Yes, to the best of my knowledge, that's what I recall.

Q. And when you—what did you do—did you just call up Mr. Wakefield?

A. I just called up Mr. Wakefield and said, What type of legal work do you have over there? I'm particularly interested in your solicitor's office, because the Federal Power Commission is unique in that it is the only regulatory Commission that gets to write their own briefs, argue their own cases before the Circuit Courts of Appeals." They don't go through the Justice Department at all, and this is the experience that I wanted and was a function I knew was unique, and I tried to feel out if there were any opportunities there.

Q. Did you then set up a meeting with Mr. Wakefield?

A. Yes. We had—most of it was done through the telephone. It so happens that their needs became rather acute in the solicitor's function with the resignation of the then solicitor, and they had one person handling about 45 cases for the Circuit Court of Appeals, so they needed somebody, and I took the job.

Q. How many meetings did you have with Mr. Wakefield?

A. I would guess, meetings, maybe—two—possibly three. Several phone conversations.

Q. Did you have any meetings with Mr. Gooch?

A. Yes.

Q. How many?

A. One—maybe two or three also.

Q. In addition to Wakefield, or with Wakefield also?

A. With Wakefield—I may have had one meeting myself with Mr. Gooch—I'm not sure.

Q. How long did—over what span of time did these oral communications and meetings last?

A. About two weeks. There was the problem of paper work and urgency on their part and I was ready to make the transition soon.

Q. During the course of these oral and actual face-to-face contacts, did they indicate to you what the future possibilities for you were at the Federal Power Commission?

A. Yes.

Q. What did they indicate those possibilities were?

A. This would be in the solicitor's office briefing and arguing cases—any kind of case—electric case, Natural Gas Act, Federal Power Act.

Q. Did they indicate to you the promotion possibilities?

A. Only that they would honor the normal tradition that after someone's in service for one year they get an automatic grade increase at that low a level, yes.

Q. Did they discuss working for the Chairman?

A. No.

Q. Or becoming a personal assistant to the General Counsel?

A. No. That had nothing to do with it.

Q. During the course of your efforts to obtain employment at the Power Commission, did you at any time discuss the FTC investigation of AGA?

A. No.

Q. It never came up?

A. I would refuse to discuss it.

Q. Did they ask for a status report or for indication of what was going on?

A. They may have asked for a status report of what the FTC was doing with respect to the AGA investigation. I would never answer such an inquiry and never did.

Q. Did they convey the impression to you, in your mind, that they did not believe the FTC investigation should be taking place?

A. No. They never conveyed that at all.

Q. Were you aware of any contact by any FPC official with any FTC official expressing displeasure or unhappiness with the fact that FTC was undertaking that investigation?

A. Unhappiness with the investigation, no.

Q. Displeasure?

A. Displeasure, no. Disagreements on the merits of some statements, yes, and this is probably best reflected in the colloquy of written exchanges between then-Director of the Bureau of Competition, Allan Ward and Gordon Gooch, General Counsel, which, I believe, is in the record of the Senate Commerce Committee.

Q. I'm talking about an earlier stage—communications not contained in the public record, whereby the Power Commission was questioning either the need for the investigation or the competence of FTC to undertake it or anything like that?

A. I can't recall any such discussion.

Q. Have you learned of any since you commenced employment with the Power Commission?

A. No, nothing as far as displeasure or unpleasantness, you know. In fact that they didn't like the investigation. Again, I'm talking about the disagreement about how—the relevance of AGA reserves to rate function in the Federal Power Commission and disagreements there, but as far as emotional or mental anguish about such investigations, none that I'm aware of.

Q. Have you now become aware of any communication by any FPC employee to any FTC employee, Commissioner or Chairman, indicating that FPC did not believe that FTC should be involved in undertaking this investigation?

A. No. I'm not aware of such.

Q. You don't know about any contact made by Chairman Nassikas to Chairman Engel or Chairman Kilpatrick?

A. Not with regards—there have been recent communications setting up the AGA reserves study. As far as—no, I'm not aware of any.

Q. In discussing employment with Mr. Gooch or Mr. Wakefield, did you discuss with them your views as to the competitive nature of the natural gas market?

A. To the extent that the publication of my article came up, yes.

Q. Did it come up?

A. Yes, because when that article—while the manuscript was presented, I believe, around January of 1971 or February of 1971, to the editors of the *Tulane Law Review*, I believe it wasn't published until about a year later. So they were aware of the article, and I had given them a draft to the article, yes.

Q. Did they indicate concurrence or disagreement with your view?

A. I would think it was safe to say that Mr. Gooch and Mr. Wakefield indicated disagreement with my view.

Q. Since working for the Federal Power Commission, have you changed your view?

A. No, I have not. . . . I must amplify on that a little bit to say that, now that I understand it a little better, the conclusions I drew in that article, I would still adhere to. Maybe some of the rationale and support of it were a little naive at the time.

Q. Would you say your additional expertise in working at the Federal Power Commission reinforces or detracts from your rationale for the conclusions you drew?

A. I would say neither. I think it's given me more expertise to understand why I drew the conclusion which, previously I may have not set out the rationale for reaching that end result. But it hasn't affected my judgments one way or the other. My overall judgment is still the same; I just understand it a little better.

Q. I take it you've been unsuccessful in persuading the Chairman?

A. Of what?

Q. As to your conclusions.

A. No. I think his conclusions are not that far apart from mine. I think his testimony before your Subcommittee so indicates. He's for de-regulation, as I'm paraphrasing it, for de-regulation is strict antitrust enforcement.

Q. Well, he believes the market's competitive and you do not.

A. No, I don't think he said the market's—I think he drew a conclusion the market's competitive, but he was not—he did not, draw a conclusion that it was black and white. He indicated that there were some gray areas. There may be some regional problems, but overall, he thought it was OK.

Q. You were talking about?

A. I was talking about one region, South Louisiana. I thought that the data indicates there may be a lack of competitiveness structurally in that area.

Q. Well, let me ask you this: you've been in both agencies; assume hypothetically that each of the regions displays the same characteristics as Southern Louisiana, which your article indicates was clearly—not gray—but non-competitive.

A. Well, people will disagree with that, but I believed it at that time, yes.

Q. Assuming each of the regions displays the same characteristics, and therefore would draw the same conclusions, how could each of the regions be non-competitive but the structure in the nation as a whole be competitive?

A. I think that, taking your hypothesis, it could not be. But, I don't know the structures of each of the other regions, but if you take South Louisiana and interpose the same concentration figures and who's participating in the market, I think you could reach that same conclusion.

Q. Based upon the additional knowledge you've picked up, isn't it a fact that so far as buyers are concerned the structure of the market in the region they're seeking gas from is relevant, and not the structure of the market in the nation as a whole?

A. I don't know. I won't concede that because it depends—I'm not going to concede that natural gas is a market—I can't even do that any more. But if you—

Q. OK.

A. But, if you determine natural gas is an appropriate sub-market, then—and regionally, it's an appropriate geographic market, then there's a possibility, yes.

Q. I wasn't even thinking of it as a legal matter. I was thinking of it as a technical matter of how the industry operates, because, as I understand it, and as the maps all around this room will show you, pipelines go to one area and one area only, and if I've got my pipeline going into South Louisiana, it's not going to do me any good if it's competitive someplace else.

A. Well, that's true, but—in fact, most of the pipelines *are* in South Louisiana now, either physically or through exchange agreements with some other pipeline. I mean, if you want to take—well, let me just say on that one point, last Fall we had a Commission opinion in a different part of the country—Montana. There was only one interstate pipeline there; that was one of the major reasons we certificated the entry of a new pipeline there—

Q. That's good.

A. To strictly increase the competition there. Gas prices were something like 3 and 4 cents an Mcf, because that one buyer was exercising monopoly power, holding down the prices. Small producers were going out of the market. There were no big producers up there to exercise their leverage.

Q. If Southern Louisiana is typical of the other geographic regions of the country—

A. It's not. It's not. I want to make that clear. I don't believe it is at all.

Q. Have you studied the 79 questionnaires furnished in connection with R-405 showing—

A. Uncommitted reserves?

Q. Uncommitted reserve concentration in each area? You don't find the same?

A. Well, I know what the percentages are, but I—as I think Chairman Nasikas indicated in his statement, the uncommitted reserve figure, I feel, is meaningless.

Q. Well, isn't that what the competition's for—that which is available for sale?

A. Yes, but that's not what uncommitted reserves is. There are numerous reserves that expire from flowing contracts and are subject to renegotiation which are not included in an uncommitted reserve figure. So your—I mean, if you look at that part of the picture, you can get some distortions. And if you're just looking at that one single point in time, which on June 30, 1972, may be 75% top four, and on July 1, 1972, maybe zero.

Q. Have you worked up concentration tables for the expiring contracts?

A. No. I don't know whether we have that data. We told—in the June 26 statement, the trillions of cubic feet, and it was about as I recall, something like 3.4 cubic feet in uncommitted reserves and our staff estimated an additional two and a half trillion cubic feet coming off flowing gas contracts, but I don't know the concentration figures, and I don't even know if we have that data. And that's just for the interstate market, too.

Q. If you think that's a relevant analysis to make, why hasn't such data been compiled by FPC and make that analysis?

A. I can't answer that question. I don't know.

Q. Did you ever recommend that they compile concentration data concerning expiring contracts to see whether that's going to increase competition or decrease it?

A. I wanted to know that information about 60 days ago, and as I recall, that was the first time it had ever been asked.

Q. Is someone working on it to compile it?

A. No. Just the aggregate figures. Now, I'm not sure it's available.

Q. I know, but you're telling me as a competitive matter, that's the relevant analysis to make, to ascertain what competition can be like. And I'm asking, since you believe that, whether you directed or suggested to anyone that someone be directed to make such a study so—

A. I've not directed anybody to do that. I have suggested it.

Q. Who did you suggest it to?

A. The Chairman.

Q. Has he directed that the study be made?

A. I am not sure, because . . . as I recall, we don't have the data for the individual producers. . . . Now, maybe I'm wrong in that regard, but I—for instance, we have to have individual contracts of each producer for each well in a given area, and I'm not sure we have all that on file—I just *don't know*.

Q. OK. I'm not quarreling with you.

A. If it is there, the analysis, in my judgment, should be made, yes.

Q. Of course, if it's not there, you have the same rule-making power as you had in R-405 and you also have subpoena power to get it.

A. We have power to get it.

Q. OK. . . . You were telling me that the Chairman has almost the same views that you do and therefore he favors deregulation with strict antitrust enforcement.

A. He testified that he favors deregulation of new gas only, the way he defines "new gas."

Q. Right!

A. With several other controls not present in the Administration recommendation, and with strict antitrust enforcement and monitoring . . . to my judgment it has been heretofore absent.

Q. How . . . if the non-competitive condition of the market relates to structure because of a few companies' controlling large amounts of reserves, how can strict antitrust enforcement remove the impediments of lack of free market forces?

A. Divestiture, dissolution.

Q. That's what the Chairman meant?

A. No! That's what *I'm* saying (laughs). That's not what the Chairman meant. That's what I'm saying. I mean, if there are structural imperfections in the market, assuming there are, there's a case that can be made either way on whether or not the industry is competitive, but if you concede it as a gray area, but overall we may need some—that it's not as structurally imperfect as many other industries which are not subject to direct governmental price regulation, and why not remove the price regulations and let the Justice and the Federal Trade Commission's functions be exercised if there is some anti-competitive.

Q. Do you know what kind of antitrust enforcement the Chairman had in mind in his statement?

A. No, I do not. I don't think he specified.

Q. Do you know whether he meant dissolution or divestiture?

A. No, I do not know what he meant. That's what *I* mean, though.

Q. . . . How did you go about becoming the Chairman's legal assistant in January of 1972?

A. I was offered the job by him.

Q. Had you previously worked with him?

A. Yes. He had seen briefs that I had written in several important cases in various Circuit Courts of Appeals.

Q. Were you recommended for the job before the Chairman communicated with you?

A. I don't—

Q. Well, were you recommended for the job by Mr. Gooch,

A. He may

Q. Before the Chairman became aware of your interest?

A. No. The Chairman asked me specifically, but Mr. Gooch did recommend me also.

Q. . . . Since attaining employment with the Federal Power Commission, have you had any direct, indirect or casual discussions with persons or companies outside the Federal government respecting future employment?

A. I don't understand the question.

Q. Well, since you worked for the Federal Power Commission, have you had any discussions or conversations, even of a casual nature, with respect to future employers, or respecting future employment?

A. Yes.

Q. With any members of representatives of oil or gas industry?

A. Yes.

Q. Can you tell me when, roughly?

A. There have been, let's say, half a dozen over the last 18 months.

Q. Were any of these initiated by you?

A. No.

Q. All initiated by the companies?

A. Yes.

Q. Were they companies or law firms?

A. Both.

Q. Any—what was the substance of your responses to the offers?

A. I was not interested in such employment at all. My salary demands precluded any inferences, let's put it that way.

Q. It was not adverse to working for that kind of a company law firm, then, it was just a matter of not agreeing on price?

A. That and the timing. I wasn't particularly ready to leave. I was learning a lot in my present position—combination of salary and timing.

Q. So, a higher offer coming along when you were ready to leave, I take it you would give serious consideration to working for one of the entities that communicated with you?

A. Yes.

Q. Was one of the companies Pennzoil United?

A. No.

Q. Was one of the law firms Baker-Botts?

A. No.

Q. Did Mr. Gooch, since he left the Power Commission, discuss with you possible future employment?

A. I believe he has, and that was prior—well, no, wait—you said "since"—Mr. Gooch has discussed future employment, but while he was still there at the Power Commission.

Q. Future employment for him or for you?

A. For me, but that was prior to his going with Baker-Botts here in Washington. In other words, "If you're interested in going into private practice, give me a call, wherever I might be," but I didn't know where he was going then.

Q. . . . Do you have any relatives working in or for or representing in any capacity oil or gas companies?

A. No.

Q. Did you ever receive any honorariums, gratuities, transportation expenses, gifts, or any other thing of value, more than ten dollars in value, from oil or gas companies' officials or representatives?

Q. Prior to entering this room, have you discussed your appearance here with anyone else?

A. Yes.

Q. With whom?

A. The Chairman of the Federal Power Commission.

Q. When?

A. Tuesday of this week.

Q. Can you relate the nature and substance of the conversation?

A. I asked him for permission to come. He granted the permission. That was all.

Q. Have you ever discussed the appearance here of other persons with anyone else?

A. Yes.

Q. With whom?

A. Webster Maxson.

Q. When?

A. Monday or Tuesday of this week also.

Q. Can you relate the substance of that conversation?

A. Just indicating that if you all did not go through him for the written communication or authorization in advance, then I was just indicating to him that I was going to appear here—that was all. We didn't discuss substantively about testimony or anything like that.

Q. Did you discuss the appearance of other persons other than yourself?

A. Oh, no. . . . I knew other people had been testifying here, yes. I don't know what they testified about or anything like that.

Q. Well, how did you learn of the fact of other people testifying?

A. For instance, I had lunch yesterday, or the day before, with Leo Forquer, who, I guess, was over here yesterday. Leo just simply indicated that he was going to testify over here.

Q. Did you ever learn the substance of any of the interviews that took place here—the nature of any of the questions asked or the nature of any of the answers given?

A. No.

Q. No one ever told you the nature of the questions they were asked?

A. No. Well, the only person that I talked to—Webb Maxson would have been the only one, yes. He just indicated what the scope of the inquiry was—that was about it. As far as what he answered to questions or what the questions posed to him were, he did not indicate those even in a general nature.

Q. . . . Before Senator Hart wrote his letter of March 7, asking for some of the information surrounding R-405, were you aware of the issuance of R-405?

A. Yes.

Q. Were you involved when the order was promulgated to reissue the updated R-405?

A. No.

Q. Before Senator Hart wrote that letter of March 7, did you have any knowledge of the attempted destruction of the documents?

A. No.

Q. Do you have any knowledge as to whether anyone on the Commission had such knowledge?

A. To the best of my knowledge, no one on the Commission, or the Chairman, had such knowledge before March 7, 1973.

Q. Before March 7, 1973, were any instructions ever issued concerning how one goes about discarding unwanted documents or what should be—can be discarded or what should be maintained?

A. To the best of my knowledge, no, but I'll stand corrected if there's an administrative regulation promulgated from the Executive Director. I don't know—I don't know anything about the destruction of documents at all. I've never had any cause to get involved in it,—or procedures for such destruction.

Q. Do you know whether anything was destroyed in connection with AR69-1, the second Southern Louisiana proceeding?

A. Whether anything was destroyed?

Q. Yes. Any documents destroyed in connection with that proceeding?

A. To the best of my knowledge, no, but that's strictly secondhand. I have no idea what happened to the record of that proceeding.

Q. Do you know were any work papers involved in connection with that proceeding destroyed?

A. No. I do not know. I just don't know. I have no knowledge about it one way or the other.

Q. Did you ever attend any Commission meetings in which that was discussed?

A. What was?

Q. Whether anything in AR69-1 was destroyed?

A. I'm not aware that—I never attended any Commission meeting where that was discussed, no.

Q. Do you know whether anything was destroyed in connection with R-405 original?

A. No. That was before I was there. I have no idea.

Q. Did you ever attend any Commission meeting or did you ever attend any meeting or hear any conversation between Commissioners or between Commissioners and staff concerning whether anything in R-405 original was destroyed?

A. Yes.

Q. What did you hear and when?

A. When—I don't know. Again, probably in the early part of June of this year where we—"we," I mean, I participated in an informal meeting with the Commissioners present—of the procedures that were to be used in the original R-405 proceeding for the collection of data, and where such data was to be held.

Q. And what did you learn?

A. . . . I didn't learn anything, other than that the data was—well, as I—I'm going to go from memory on that . . . as I recall the first R-405 the procedure was set up where two or three lawyers in the Office of General Counsel were appointed investigating officers to gather data—"gather data," by that, I mean,

go to different parts of the country and have the individual producers submit whatever data there was, and apparently—the order will speak for itself, but apparently, it was my understanding that whatever the uncommitted reserve figures were, they were simply that gross figure that was simply read into some type of a hearing record or composite—I don't think there were any work papers there, but I could be wrong.

Q. Do you know whether any work papers presently exist showing the uncommitted reserves compiled in R-405 original?

A. I don't know. I don't know whether there were every any such work papers . . . because I believe those were different procedures than were used in the updated, and I just can't recall . . . that was before my employment, so really I'm talking about second hand.

Q. Yes. I'm talking about anything you might have learned in the past few months.

A. I understand.

Q. I thought it was the subject of discussion at the Commission right now as to what happened to the work papers in R-405 Original. Is that wrong?

A. To my knowledge, it's wrong. . . . The immediate concern, as I recall, was what happened or what was attempted to be done with respect to this second 405 group.

Q. Senator Hart sent a letter to Chairman Nassikas on March 7.

A. Yes.

Q. Can you tell me the events that you're aware of transpiring on receipt of that letter?

A. None. I never saw the letter. I am only assuming that either the Chairman or a Secretary in our office sent the letter to Mr. Joyce for a response. I do not review incoming mail at all. I never see it.

Q. Did you ever attend any meeting between Mr. Joyce and Chairman Nassikas concerning how to respond to that letter?

A. No. I'm not aware of any such meeting.

Q. Did you see the letter before Mr. Joyce sent it out?

A. No. You mean the March 20 letter?

Q. Yes.

A. No. I never saw it.

Q. Before May 18, were you aware of any Commission discussion or discussion between any Commissioner and any staff person pertaining to the R-405 updated documents?

A. Only discussion with respect to the end result of the February report that was released by the staff as to the—later we learned of the attempted destruction. Up to May 18, I am aware of no such knowledge.

Q. When the Commission discussed the leak in the staff report, did anyone inquire as to what was to be done with the underlying data?

A. To the best of my knowledge, no.

Q. Did the Commission contemplate that the data would be maintained or destroyed?

A. Maintained. Our order so requires.

Q. Do you know whether that language "maintained," was consciously put in with the view in mind to make sure it was not destroyed?

A. I believe—I don't know—I don't know—but, I am assuming it was, yes.

Q. As I recall, the next event was after receiving Mr. Joyce's letter of March 20 and Chairman Hart sent down another letter I think, dated March 18, which was a Friday—

A. May 18?

Q. May 18—excuse me—on the same subject. Do you recall receiving that letter?

A. Yes, I recall seeing the letter.

Q. When did you see the letter?

A. Ah—it was received in our office on May 21, Monday, so it would have been Monday, Tuesday, Wednesday—the early part of that week—shortly thereafter the receipt of it because I was going to be involved in—that letter spoke to the scheduled hearings, and therein referred to Joyce's letter

Q. Yes

A. and that was the first time I was aware of Joyce's letter.

Q. Well, can you relate the events that transpired that you're aware of, from the moment that the letter was received in the Chairman's office?

A. Well

Q. I mean, the 18th letter?

A. To the best of my knowledge, it was then that I got involved in with looking at—first became aware of the Joyce inquiry and the Joyce response to Senator Hart, and the subject matter then came up as to where the uncommitted reserve data were,—I mean, assuming—assuming that we were going to supply such data, what did it look like? And then, that's when all hell started breaking loose, and we found out things had been tried to be torn up, and what have you.

Q. Tell me a little bit about how all hell broke loose—what happened? Did you see the letter before all hell broke loose? Did you discuss it with the Chairman?

A. No. We discussed the general nature of the testimony and what generally we should talk about in the testimony.

Q. On May 21?

A. Or shortly thereafter—22nd, 23rd—very shortly thereafter.

Q. Before or after hell broke loose?

A. No, before. And then, in that context, I became aware that Joyce colloquy with Chairman Hart and his request—which I believe he called it the second request—at the date of the hearing that we come up with this data, so we then said, "Let's take a look at this data," and

Q. Who's "we"? You and the Chairman?

A. Me and the Chairman, and Mr. Joyce was involved there.

Q. Joyce was up there at the time you and the Chairman were discussing the letter?

A. In the context of the Joyce colloquy, not in the context of the preparation of testimony. And at that point in time, we came—

Q. Well, wait a minute—did Joyce indicate then whether the documents existed or didn't exist?

A. He said, they did.

Q. Joyce said the documents existed?

A. To the best of my knowledge, he said they did. We said, "Let's take a look at them—"

Q. I don't want to keep interrupting you, and feel free when I finish to say anything that—I'm not trying to cut off the answers, but I have in mind something more particular, obviously, because we've had fifteen other witnesses testify—

A. I understand.

Q. And we're trying to sort out, you know, some testimony.

You said, he indicated that the documents existed,—but that he believed they existed. Does that mean because he found out that they almost were destroyed, but weren't or he just—

A. I got the impression to the opposite. He assumed they did, at which time we said, "Well, let's take a look at them," and he subsequently reported the attempted destruction and what have you, to us.

Q. So you think that when he was up there, his first indication was that they existed because he didn't know that they were almost destroyed in the past, is that what you're saying?

A. He assumed they existed. My impression that—he assumed they were just maintained in confidential status and they were somewhere in the Bureau of Natural Gas.

Q. And this was up in the Chairman's office?

A. Yes, as I recall.

Q. Not by telephone?

A. No. This was in the Chairman's office—yes, definitely the Chairman's office—Tom Joyce, myself, and the Chairman.

Q. So, his instructions were what?

A. To review the data, and let's look at it and see—what exactly Senator Hart's inquiry concerned, and from that—

Q. And, then, what? Mr. Joyce left?

A. Mr. Joyce was instructed to get it.

Q. Do you mean get it right then, so you could look at it that day?

A. Well, yes. Yes. Immediately. And it was either that afternoon of the same day—the 21st, 22nd, something like that—that week, early part of that week, that he learned that Mr. Mangen—had—as I recall, Mr. Mangen had apparently sought to destroy the documents with no authorization, and that was transmitted to us, and that—

Q. Well, did he come back and tell you that?

A. Yes.

Q. He came back?

A. He went and checked and came back to us and then the Chairman immediately involved other people.

Q. Before we get to the other people, let's just center about Mr. Joyce now. You had the meeting, you think it was the same day that the letter was received, but you're not sure?

A. Either Monday, Tuesday, Wednesday—the very first part of that week—I'm fairly sure it was on Monday.

Q. Yes. And Mr. Joyce indicated, Yes, he'd get the data, and it was a good idea to look at it, and then he went to get it, and then he came right back, you think?

A. Yes.

Q. Saying what?

A. This was in a matter of an hour or two.

Q. In an hour or two, saying what?

A. Indicating . . . that Larry Mangen had apparently delivered this to some shredding machine, or whatever we have at the Federal Power Commission, attempted to have the documents destroyed?

Q. At that point in time, did he know that that attempt had not been successfully carried out, or did he then have the knowledge?

A. He did not—he did not know, whether it was successful or whether the documents had been destroyed.

Q. But he came back just to deliver the information that they had been taken someplace to be destroyed?

A. That's—that's—yes, as I recall.

Q. Then what happened?

A. Then the Chairman notified Webb Maxson to get the documents, find out where they were—I *think* it was Webb Maxson—either—Webb, I know, was involved. It could have been concurrently with Tom Joyce, too—and to get the documents back and find out what the status was, where they were.

Q. Did Maxson come into the Chairman's office when you and the Chairman and Joyce were there?

A. . . . Yes . . . Yes, I believe so.

Q. At that point in time, did it appear that anyone had knowledge that the documents still existed?

A. No. I think we were operating under the assumption that they had been destroyed—that the destruction, or attempted destruction, had been successful.

Q. And what was the—

A. Before that—I think there was a—that they had been shredded is what we were notified of, and so we assumed they were destroyed.

Q. You were notified of that by Joyce?

A. Yes, and I think he—I don't know where he got his information, but I think he assumed that they were, in fact, destroyed, and gone.

Q. And, so does this take us now to the afternoon of the 21st?

A. I'm not sure what day we're talking—I think Monday or Tuesday or Wednesday, the first part of the week—

Q. Just for your background information and of course the record will ultimately reflect this, but most of the other witnesses—in fact, all the other witnesses who were concerned, at least indicate that all this happened the same day that Senator Hart's letter was received, which was Monday, May 21st.

A. Well, you see, I'm not sure about the Monday.

Q. Yes.

A. It could have been—it could have been—we received the letter Monday, and the context of our discussions, which lasted a good part of that morning, was of competition in the industry, what kind of data—it was more in the context of the June 26, or *then*, the June 6th hearing, which we had very little time to comply with.

Q. Right.

A. And then, it was just the substance of the testimony. And then, the Chairman, as I recall, you know—there are other parts to that letter, and got out the documents, and called Mr. Joyce, and said "What did you send to Senator Hart?" and what have you.

Q. Oh, well, did it appear to you then that the Chairman had not previously seen what Mr. Joyce had sent to Senator Hart?

A. He—if he had seen it, I was unaware of it. He had to ask Mr. Joyce, "What was your reply?" and "Give me a copy of what—that March 20 letter," and he didn't have it.

And then, that second whole part of the May 18th inquiry then became exposed and then came to our attention. I don't recall—this may have been Monday afternoon, I'm not sure. It could very well have been Tuesday.

Q. OK. Let's assume today that we don't know and that it will have to be established by other witnesses, but whatever day it was, when you got Mr. Maxson in, was it then in the afternoon? Was it, like, after lunch when Maxson came in with Joyce—

A. It was either that—the afternoon of the 21st or the following morning, something on that order.

Q. I'm confident we can establish which date it was. Everyone else confirms the day, but the record will have to determine if that's accurate. I'm trying to focus from you, then, as to whether, when Joyee came back and said the documents had been shredded and the Chairman got Maxson in, whether you can relate to—was that before lunch, or after lunch, or what?

A. I can't. It was either Monday afternoon or Tuesday morning, to the best of my knowledge.

Q. OK. So, we're at the point now where Chairman got on the phone to call Maxson. Then, someone related to Maxson, I take it, that Joyee had reported the documents were shredded?

A. Yes.

Q. And what did the Chairman—

A. Maxson was to conduct an immediate investigation and talk to whoever the shredder man is, or whatever had to be done to find out what happened to the documents, to find out what their status was, were they, in fact, destroyed.

Q. Well, how was it found out that the documents were not actually destroyed? Who found it—how did you find out about it?

A. Well, it was reported back to us and I don't know by who—whether it was by Webb Maxson or Tom Joyce, or who reported back to us, that the documents were apparently torn in half or in four pieces and put in some burn bag or something in some room that we have in the basement, or something—I don't know where it is, but they were there getting ready to be burned, or something, but they were still retrievable and could be put back together.

Q. How—how soon after Maxson and Joyee left the Chairman's office did you get a report back that the documents still existed?

A. I think this took about—at least, 24 hours. It took much longer than it should have. This was not the same day that we were notified, because it—until Webb Maxson finished what was to be a preliminary review of the subject, we were still operating under the assumption that they were destroyed, however documents are destroyed.

Q. Could it have been 48 hours, in fact?

A. It could have. It could have been Thursday or Friday of that week, or longer. It could have been a matter of two or three days before it was established that the documents were attempted to be destroyed and were in pieces that could be put back together.

Q. You had no earlier notification by either Mr. Joyce or Mr. Maxson that they found the documents, you know, in somewhat altered form, but still in existence?

A. To the best of my knowledge, no. It was surprising, yes.

Q. Did the Chairman get earlier notification?

A. To the best of my knowledge, no.

Q. I appreciate it's to the best of your knowledge, but try to give us an indication of how you obtained this knowledge now, in reference to whether the Chairman—

A. Well, the Chairman and I, I believe, were notified at the same time, and that same time, I think, was later on that week.

Q. Well, how do you know you and he were notified at the same time?

A. Because we were together when we were notified. Now, if he was notified earlier, I am unaware of it. But he was notified *then*, and I assume that this was the first time.

Q. You mean, because he indicated to you that this was newly acquired knowledge?

A. Yes, sir, yes.

Q. Who made that notification?

A. Webb Maxson.

Q. In what form?

A. Webb Maxson or/and Tom Joyce orally advised us.

Q. You were both together—you and the Chairman?

A. Yes, sir.

Q. In his office?

A. Yes, sir.

Q. Did they just come barging in, or was this a prearranged meeting?

A. No, they came in as soon as they found out the information.

Q. How do you know it was as soon as they found out?

A. I don't know that, I don't really know that. But they notified us in his office, without setting up a previous appointment.

Q. You were with the Chairman on another matter?

A. Yes, I don't know what it was.

Q. Was it a minimum matter, you say, of two days.

A. I'm guessing it was like Thursday before we definitely knew that these documents were in pieces in a bag that could be put back together. In other words, we knew they had been torn up, but we didn't know that they were torn up and still could be retrieved and put back in their original form. . . . In other words, people—I think the 48 hours, 72 hour—whatever it could have been—this was to make sure in our own minds that all the work sheet scraps, you know, could be mashed back together, in other words, so that Company X, we could find all the pieces of Company X to scotch tape or whatever they have to do to put it back together—

Q. Well, what were you informed before they came back and told you definitively that everything was scotch-taped back together?

A. We still operated—we still operated—we knew they had been torn and allegedly destroyed. We found out they were not destroyed but they were torn—torn up in pieces. We did not know that the torn up pieces could be reconstituted into what they looked like when they were submitted. That was the definitive thing later on.

Q. Now, your statement is changing a bit. You started out saying that on the first day—it's either a Monday or a Tuesday, you're not sure which day, but on the first day, you were told by Mr. Joyce that it was taken from the shredder and that when he came back telling you that, the Chairman called Mr. Maxson in and Mr. Maxson was ordered to commence an investigation and that you heard nothing else from Mr. Joyce or Mr. Maxson for, what you think was Thursday, but at least for 24 hours, and now you seem to be changing that a little bit and you seem to be saying that on that 24 hour period, maybe Thursday, you were told that you could piece it back together. Now, I'm trying to find out, when did you find out that they were not shredded or were not burned or that they existed in some form, albeit you didn't know if they could be pieced together?

A. Why, that was a matter of hours on either the same day or Tuesday. We found out that they had been torn up and were sitting in a bag. Now what was torn up and sitting in a bag, we didn't know—whether they were all the 79 responses, one of them, or whether or not they could be put back together. As I say, it was probably Thursday or Friday of that week before we knew that each and every one could be restructured in total.

Q. Now, when Mr. Maxson was called in and told to commence the investigation and he and Joyce left, how did you find out that the documents still existed in somewhat—in a torn form. Did Maxson tell you?

A. I don't recall. Either Maxson or Joyce. I'm inclined to think it was Joyce.

Q. On the same day that Maxson was told to investigate?

A. It would have been either late that same day or early Tuesday.

Q. Well, was Maxson or Joyce told to retrieve all the documents?

A. Yes. To find out what happened to them and to get ahold of them. That was the first instruction—to find out what happened to them and get them back.

Q. And when they reported back that same day that they existed, but in somewhat torn form, were any instructions given as to what to restore—whether the work papers should be restored or the questionnaires, or any replies restored or what?

A. Anything that was attempted to be destroyed was to be put back in proper form, (Knock at door) if they could be.

Q. Yes. . . . Did Maxson render some kind of a report on that Thursday or the day you think he came back, saying "We've now got everything restored"—a report as to the events that transpired?

A. No. . . . Oh, he gave us maybe a preliminary report of a—who the parties involved were, why impressions were about people, why they did what they did, that's all.

Q. What—

A. The fact that Larry Mangen was the person who apparently requested that the data be destroyed.

Q. At that point in time did he indicate why?

A. There was some discussion that this was the way it had always been done in the past, which I don't know what that meant.

Q. Was discussion had at that point in time or prior thereto as to whether this transpired because of Senator Hart's letter seeking the data?

A. No, I don't believe so.

Q. Did that discussion ever take place, in your presence?

A. To the extent that Senator Hart alleged that we did that. . . . The Washington Post article made the allegation. The destruction had been made at the . . . initiation of the March 7 inquiry of Senator Hart.

Q. That article came out, as I recall,

A. May 11, or something.

Q. June. I think—in June.

I. It's in one of the letters he sent to us where he forwarded the article. I can't remember what the date was.

Q. But before the Washington Post article, did you hear any oral communication as to whether Mangen's act of destruction related to Hart's request or not?

A. I didn't hear any.

Q. Did you hear any oral discussion related to the Office of Economics attempt to get some data?

A. No, I did not.

Q. What did Maxson say as to why Mangen tried to destroy the data?

A. He said something about, "This is the way we've always done it in the past." I don't know what "the past" referred to.

Q. Now, as I understand the Washington Post article, it did not make any allegation as to why they were destroyed, but recited the fact that Senator Hart had asked for the documents and subsequent to that request, they were attempted to be destroyed.

A. That could be. I don't remember the article. I can't recall. That's what I recall—the inference in the article, but I'd have to look at the article again.

Q. Well, when the Chairman received the letter from Chairman Hart dated May 18, or any time subsequent thereto, were you present at any characterization he made as to the motives of underlying Senator Hart's request?

A. The motives underlying Senator Hart's request?

Q. Yes.

A. . . . No. I don't think the motives for his request were questioned.

Q. Well, did you hear him characterize Senator Hart's request?

A. . . . Well, I don't know what you mean by "characterize."

Q. Did he characterize the reasons for Senator Hart's request?

A. No. . . . He indicated what he thought were the reasons.

Q. What were the reasons he indicated?

A. As I recall, it was something to do with what the concentration figures might be, of these uncommitted reserve data.

Q. Did he give any indication of the belief that it was an attempt to embarrass the Commission or the Chairman?

A. I don't believe so.

Q. Did he indicate that this was an attempt to "get" the Chairman?

A. I don't believe so.

Q. . . . Did he otherwise characterize the motives of Senator Hart in making the request?

A. No. Not that I'm aware of.

Q. At no time that you heard?

A. No. Not that I'm aware of. He never questioned the motives of Senator Hart's request. He may have questioned the legality of complying with the request, but the underlying motives, I don't think were ever questioned.

Q. OK. . . . What happened when Mr. Maxson and Mr. Joyce came up and said, "Everything's been destroyed,"—what was done then, or said then?

A. Well, I think there was a twofold discussion. The primary discussion that I was involved in was the legality of whether or not we'd comply with Senator Hart's request the date of the hearing; in that we had the underlying work papers, would we thereafter comply with the request to supply him the day of the hearing.

Q. Can you recite the substance of those conversations?

A. Well, we discussed the powers of the Subcommittee to subpoena, the—whether or not we could divulge such information without violating our orders, without violating the rights of the parties that submitted such data in confidential status, generally along those lines.

Q. What was the conclusion along those lines?

A. Well, the conclusion, as I recall, I guess, was first reflected in the June 18 letter to Chairman Hart. We indicated—the Chairman indicated we would not disclose such data—would violate the Natural Gas Act, and what have you.

Q. I thought we were talking about that Thursday meeting, right after June 21—May 21. Is that what you were talking about—

A. No, I'm talking about the conclusions that came from the discussion about the legality of complying with that. There were many discussions that culminated in that letter.

Q. OK. Well, I'm still focusing on that Thursday meeting, when Maxson and Joyce came in and said, "We've not the data restored." I want to know what happened then, just at that meeting.

A. Well, as I say, the meetings that I were at, that Thursday meeting, there was a twofold discussion: (1) Can we supply them with data for the hearing as requested per the May 18 letter; (2) the other discussion related to the, oh, let's say, initially the circumstances that surrounded the attempted destruction in the context of whether such employee—such employee meaning Larry Mangen, whether he had violated Commission orders and what action should be taken against him, and what have you.

Q. What were the conclusions drawn about that?

A. There were no conclusions drawn at that point in time. You can't draw quick conclusions on the rights of the Chairman in respect to the Civil Service Commission. . . .

Q. Well, what were Mr. Joyce and Mr. Mangen told to do?

A. At that point in time, as I recall, inasmuch as the documents either were—could be put back together or were put back together—if they weren't, they were ordered to be put back together, and then put in a—I believe, Tom Joyce's safe, or a safe somewhere.

Q. Was Maxson told to proceed further with the investigation?

A. No. Maxson had—at the, let's say, Tuesday, to the best of my recollection, on that Tuesday, the 22nd of May, he was to prepare a full investigation of all circumstances surrounding. This included, as later reflected, affidavits of all concerned parties, and what have you, and this culminated in his public report, but he was pursuing that throughout this entire thing but we were getting sketchy reports of what happened throughout that time period—preliminary reports.

Q. When was it decided that he would proceed on an affidavit-under-oath type basis?

A. I can't recall. Not then, at May 22.

Q. Did he make that decision himself, or was he told by the Chairman to pursue it that way?

A. I believe he made that decision by himself with the concurrence of the Chairman.

Q. Was that decision made after Senator Hart announced that the Subcommittee was conducting its own investigation?

A. No, no. That was before.

Q. The dates we have—

A. Wait a minute. I can't recall when you—you said that the May 18th—the June 11th, as I recall, was the letter of Senator Hart which said, "We're going to do our own investigation." We had made our—we were going to do ours long before that.

Q. Right! But, as I look at your investigation, which you know we have, all the papers collected by Mr. Maxson, no under-oath interviews took place or were scheduled, and no written statements, affidavit types were taken, until after the announcement of Senator Hart that the Subcommittee was conducting its own investigation to and I'm trying to find out whether a change in style of your investigation took place

A. No, I—

Q. Because of Senator Hart's announcement.

A. I would say, no.

Q. I was trying to find out whether a change in signals was given pertaining to how the FPC was going to conduct its investigation. I guess you were telling me that to your knowledge, there was no change of signals—it was always supposed to be the way it came out?

A. To my knowledge there was definitely to be a full investigation, that full investigation having been decided and ordered by the Chairman, May 21, May 22, May 23. Such investigation was to be done by the Executive Director. The procedure with respect to written affidavits—I don't remember when that decision was made or why it was made.

Q. By whom was it made?

A. As I say, it was made by Webb Maxson, with the concurrence, I believe, of the Chairman, but when and what motives—I have no idea.

Q. Did the Chairman ever issue an instruction that the investigation was to be concluded before you testified at Chairman Hart's hearing?

A. No. Not that I'm aware of. . . . That investigation was to be completed as soon as possible.

Q. Was Mr. Forquer called in to the discussion as to whether the Commission should comply with the Subcommittee request?

A. Subcommittee request (to himself)—as contained in the May 18 letter?

Q. Yes.

A. Yes, I believe he was.

Q. About how many conversations took place that you can recall when Mr. Forquer was present?

A. . . . I would guess three or four—I can't pin it down.

Q. Can you relate to the best of your recollection the advise rendered by Mr. Forquer?

A. To the best of my knowledge . . . to the best of my knowledge he believed and recommended that there were a couple of legal bases—two statutes primarily to consider in complying with this request—the Freedom of Information Act and the Natural Gas Act. I believe Mr. Forquer recommended that the Freedom of Information Act was not an appropriate defense to *not* submit—to refuse to submit the data, but the Natural Gas Act could be a proper defense to refuse to submit the data at the data hearings.

Q. Was this a written or an oral recommendation?

A. He's—these were oral recommendations. He also had a written recommendation, which I don't recall what it said.

Q. We have that.

A. But I'm recalling the oral recommendations at this time.

Q. During these oral recommendations, did he or did he not indicate that the Commission had the power under the Natural Gas Act to modify its order, so as to enable it to comply with the Subcommittee request?

A. That was discussed.

Q. Did he recommend that it had the power to do that?

A. He indicated that we *did* have the power. At the same time, he recognized that once that data was collected on a confidential status, the retroactive taking off of that confidential status may affect the due process of the parties that responded.

Q. In terms of ultimate recommendation, did Mr. Forquer or did he not recommend that the Commission reach an accommodation with the Subcommittee and provide the data to the Subcommittee?

A. . . . I don't know. I believe his oral recommendation was that we should comply with the Subcommittee.

Q. Now, you said you believe that his oral recommendation was that the Power Commission should comply and submit the data, is that right?

A. To the best of my knowledge.

Q. Who do you recall being credited with that recommendation?

A. Myself. Each of the Commissioners, with the possible exception of Commissioner Springer—he may not have been there, I just don't remember. He was at some and some he was not.

Q. Was this recommendation before the subpoena or after?

A. I'm talking about way before the subpoena.

Q. So am I. I just wanted to make sure.

A. I'm still talking about the May 18th letter—when we show up June 26th, what do we do.

Q. Right.

A. That's what I'm talking about. . . . And the other—Tom Joyce—I don't think anybody from the Bureau of Natural Gas was there—just the lawyers involved, and George McHenry was there, who is our solicitor.

Q. What was your recommendation?

A. I recommended against it.

Q. And what did Commissioner Moody recommend—well, let me go back this way—were any other staff people there that made recommendations?

A. That's what I'm trying to recall. I don't believe—I believe the only people there were Leo Forquer; George McHenry; myself; the Chairman; each Commissioner, with the exception I believe of Commissioner Springer; and possibly Webb Maxson, but I'm not sure—I'm not sure Webb Maxson was there.

Q. What was the Chairman's reaction to Mr. Forquer's recommendation?

A. At that stage, he adopted my recommendation, which was to submit the concentration figures, as opposed to individual data . . . which I felt would *not* violate confidentiality, would not concede other legal arguments, and would also serve the legislative purposes of the Committee.

Q. He adopted your recommendation on the spot—he told Mr. Forquer "No," or did he wait a couple days and then tell Mr. Forquer?

A. No. That's on the spot.

Q. On the spot?

A. Yes. At that point, when that suggestion came up, Mr. Forquer neither agreed nor disagreed with that.

Q. He made his recommendation, you made your recommendation, and the Chairman said, "We'll do it this way"?

A. That's right.

Q. What did the other Commissioners say, if anything?

A. I don't know what they said, but they concurred at that point in time. I don't remember what they said, though.

Q. Did Commissioner Moody initially oppose providing the data for the Subcommittee?

A. In the disaggregate—in the way that I suggested it be presented—no, I don't believe so.

Q. Well, what did he say with regard to Mr. Forquer's recommendation?

A. I believe he was opposed to that. What Mr. Forquer suggested was that we present the entire data the day of the hearing. What I suggested was essentially a compromise, to see if the Subcommittee would buy it, in advance of the hearing, which we did supply and release to the public—the four-top, eight top, twenty top presentation.

Q. Now, when the Chairman adopted your recommendation and decided so to proceed, did he instruct Mr. Forquer to prepare a legal memo defending the Commission decision?

A. I don't think so—not with respect to that, "that" being the top four-eight-twenty type release. I believe the memorandum, as I recall it—I don't recall the memorandum, but I know it was written—was in response to "What do we do on June 26?" and whether that memo was written before or after you refused to accept that. I'm not sure.

Q. Yes. But Mr. Forquer made one recommendation, and he said, "Well the Freedom of Information Act probably won't help you. The Natural Gas Act you can use, but you do have the power to modify the order and I believe you ought to supply the stuff to the Committee." Yet when I read his memorandum dated June 15—

A. It could be completely contrary—

Q. Consisting of nine pages, it says, "You can withhold it under the Natural Gas Act; you can withhold it under the Freedom of Information Act; and I recommend that you *do* withhold it." Now, I want to know did he write that because the Commission made the decision and they said, "Give me something to defend our policy position," or did he have a change of heart and a change of views as to what the answer is—well, when was he told to write a memorandum and by whom?

A. The Chairman told him to write a memorandum.

Q. When?

A. I'm not sure. As I recall, I believe it was *after* we had made the decision to release the top four, top eight, top twenty publicly and to the Subcommittee. It could have been before, but as I recall, it was after the decision was made. It may have been before the release was made, because there was a time—fairly substantial time frame involved between the decision to release it and the preparation of the top four, top eight, twenty, from all the raw data.

Q. All right, at some time, you're not sure when, the Chairman told him to prepare the memo. Did the Chairman tell him how he wanted it to come out?

A. No. . . . Wait—

Q. For all the Chairman knew, Forquer could come back with a memo saying in writing, "Supply the data"?

A. Well, that was his recommendation. As I recall, it was oral.

Q. Right. So when the Chairman said, "Give me something—

A. And his written memorandum—and it may very well be true, I don't read an opinion to the contrary with respect to the—possible respect to the Freedom of Information Act and the Natural Gas Act, I think has the same recommendation.

Q. Yes, but the ultimate recommendation in that memorandum was that the Commission should not provide the data to the Subcommittee, which is different from your first lower recommendation. I'm trying to find out whether all on his own accord, Mr. Forquer wrote this up, or when he was told to write it up, you know, he was writing up something to implement the Commission decision?

A. As I say, I don't know.

Q. Well, the Commission decision—was the Commission decision made before or after Forquer's recommendation?

A. To release—to do what?

Q. Not to supply the underlying information to the Subcommittee?

A. At the date of the hearing?

Q. At the date of the hearing. I don't know if that makes any sense on the record. Let me rephrase it.

Forquer wrote a memorandum recommending that it not be provided for the Subcommittee.

A. Right.

Q. And citing certain—some legal principles and case and statutes. I want to know if the Commission made a decision not to supply that data to the Subcommittee before or after Forquer's written recommendation?

A. After—to the best of my knowledge, after that recommendation.

Q. How could that be, you tell me, the Chairman decided on that day of Forquer's oral recommendation *not* to accept, but instead to supply the Subcommittee with—

A. Because, I told you, this was a kind of in a two-stage type thing which was recommended by me as a kind of accommodation. We recognized that there were some problems with releasing the data to the Committee, and I recommended against doing it, so we attempted to use this accommodation, which nobody seemed particularly to object to at that point in time.

The second stage was whether or not, assuming that the Subcommittee refused to accept that, what do you do June 26? And Leo Forquer's recommendation, as I recall, in writing, was that—written recommendation, I guess—was that we should not or we don't have to—but as I recall, the oral recommendation preliminary to that, was a different view. Why he changed his mind, I don't know—whether it was the legal research that he, or he had somebody do—but his initial reaction was what I stated. . . . I do want to just add to the record that I do remember there was another party at the preliminary meetings. That was another lawyer named Ken Richardson.

Q. Who did he represent?

A. Well, he was working for Leo Forquer.

Q. Was Jane Nix at the meeting?

A. I'm pretty sure she was not.

Q. Did the Chairman decide without consulting the other Commissioners not to submit the data?

A. (inaudible)

Q. Was it all together?

A. (inaudible)

Q. OK. To finish up that sequence then, as I understand it, we have the oral recommendation of Forquer, your compromise type position, which was adopted. Then we have the submission of the concentration data to the Subcommittee in that form. Then you were made aware, I take it, that that was not sufficient and the Subcommittee still desired the underlying data at the June 26th hearing, is that right?

A. Yes. I can't recall why I was aware of it—it may have been a conversation. It was with somebody on the staff. Whether I talked to them or whether they talked to the Chairman, I'm not sure. Then that was followed quickly thereafter by this subpoena.

Q. And then, is it after you learned that, that the Commission made a decision that they were not going to supply that to the Committee?

A. Oh, you were . . .

Q. Well, I would hope that the Commission took the matter up again, since it learned that your compromise was not accepted.

A. It was not accepted, and the Commission, the Chairman included, and each Commissioner—we sat down and discussed it further, trying to determine what the alternatives would be from the Subcommittee's standpoint, and recognized that if the subpoena were issued, we would have no choice, discussed alternatives to try to get into a court, recognized that we couldn't do that either. And it came to the—I think the Commission then came to the practical conclusion that the Subcommittee was holding all the cards and we would simply have to wait and see when the subpoena issued, recognizing that the request had been denied, if the concentration figures satisfied your inquiry.

Q. Was it at that point in time that Mr. Forquer wrote his memorandum?

A. I believe it preceded that.

Q. Preceded?

A. I don't know the date of his memorandum.

Q. It was dated June 15.

A. June 15—that's before we actually sent the concentration figures, but I believe it was subsequent to the decision made to prepare and supply the concentration figures.

Q. Did anyone on the Commission or anyone present at the Commission discussion of this Subcommittee request suggest that the Chairman or any other member of the Commission meet with the Subcommittee or the Subcommittee Chairman or the Subcommittee staff to see what accommodation could be reached?

A. I don't recall such discussion.

Q. Why did the Commission believe—what discussions ensued concerning why the Subcommittee should not be able to review the data?

A. First of all, to start with, your inquiry was with respect to the nature—your overall inquiry was the nature and concentration in the gas-producing industry. We supplied such data, in concentration ratio form, which we thought would be a proper method for staff analysis—it would serve *their* purposes. We could see no legislative purpose in looking at the raw data.

Secondly, to supply such data would violate our own outstanding orders. Although we could modify those orders, we had already obtained such data on the basis of confidential status. Those were a couple of reasons. . .

Q. What about the White House?

A. To the best of my knowledge, none whatsoever.

Q. Mr. Gooch?

A. None whatsoever.

Q. Well, if it's all right with you, it's 12:35, and we'll take a short luncheon recess and try to wrap it up.

BREAK FOR LUNCH

Q. Let's turn a moment to the Belco proceeding. Did you participate with the Chairman in writing the dissent to that opinion?

A. Yes. I think I can answer that question, yes.

Q. Prior to your commencing to work with the Chairman in connection with deciding that case, did you participate at all with the staff in terms of the conduct of the trial of that case?

A. No. I was working with the Chairman long before that matter was ever set for hearing or option pricing procedures were even promulgated.

Q. Did you at any time learn whether the documents destroyed by Mr. Mangen—that were almost destroyed by Mr. Mangen—were destroyed to prevent the Office of Economics from utilizing them in the Belco case?

A. I'm not aware that that's the case.

Q. Were you aware of any investigation that took place designed to ascertain whether such was the case?

A. No, I'm not.

Q. Do you know whether the Office of Economics sought the data underlying R-405 for use in the Belco case?

A. . . . I do not know. I have *heard* that that was the case.

Q. Where did you hear it from?

A. . . . Mr. Maxson, as I recall. . . . I am aware that the Office of Economics apparently wanted the data, I don't know what they wanted it for.

Q. When did you find out they wanted the data?

A. I would guess somewhere in the first or second week of June of this year.

Q. How did you find out?

A. Again, I believe Mr. Maxson indicated that.

Q. In what context did he tell you that—out of the "blue" or were you discussing why the documents were destroyed, or what?

A. I believe this was in the context of his gathering facts on the investigation into the R-405 attempted destruction.

Q. Did he ascertain that the documents were almost destroyed to prevent the Office of Economics from utilizing them?

A. I don't know.

Q. . . . Did you ever find out whether the Office of Economics requested the documents for use in the Belco case?

A. It was my understanding that they did, again, through Mr. Maxson.

Q. Have you ever heard from anybody that Mangen had almost destroyed the documents because the Office of Economics wanted them?

A. No, I have not.

Q. . . . Do you know when the Office of Economics requested the documents?

A. No, I do not.

Q. Do you know what the answer was to the Office from the Bureau of Natural Gas?

A. I do not have, but as I recall, the Executive Director's investigation—I don't remember when it was, whether it was February, March, April, or May, but it was sometime this year—that someone in the Office of Economics had requested this from the Bureau of Natural Gas, and the Bureau of Natural Gas—apparently they said they couldn't give this to the staff because it was confidential in the terms of the order, but there was provided to someone in the Office of Economics, concentration ratios—in what form and for what areas, I don't recall, but this was provided, I believe it was provided on an administratively confidential submittal to the Office of Economics. I don't know the time period involved. I don't know that that request was for utilization in the Belco proceeding.

Q. . . . Did the terms of the R-405 updated order preclude use of the data in the Belco proceeding if it were established that the information was material and relevant to the issues in that case?

A. I would so interpret the order as precluding the use of such data. . . . (?)

Q. I take it, the order does not preclude use of the information in aggregated form, such as four, eight, and twenty firm concentration ratios?

A. Some people may very well argue that *that* violates the order.

Q. Did you?

A. I did not think it did.

Q. Who was authorized to construe the order and determine in what form the information could be used?

A. I—I don't understand the question. The order says, "The data submitted shall be maintained in confidential status."

Q. Right.

A. In the custody of Larry Mangen—I don't know what construction you want me to put on that.

Q. Well, I'll get more specific. Let's say the Office of Economics says, "Give me four, eight, and twenty firm concentration ratios." Who was authorized to make the judgment as to whether that conflicts with the order?

A. The Federal Power Commission—the Commission itself.

Q. Not Mr. Mangen?

A. I don't think Mr. Mangen. . . . The Office of Economics requested data which I think the order—I don't think the order can be construed—I think the order states that it is so to be held in the custody of Mr. Mangen. If the Office of Economics would like such data, that request should be directed to the Federal Power Commission itself.

Q. Yes. But if the Office of Economics asked Mr. Mangen for four, eight and twenty firm concentration ratios, under the terms of the order, does Mr. Mangen have the authority provided, or must Mr. Mangen go through the Commission?

A. I would assume Mr. Mangen would have no such authority.

Q. He would have no such authority?

A. Yes, sir—to release four, eight, and twenty without coming to the Commission.

Q. Would Mr. Joyce have such authority?

A. . . . I would say, no. Well, again, this is in the context of the—to release it for what purpose?

Q. To give the Office of Economics the information.

A. For what purpose? Or does your question necessarily require a purpose.

Q. Well, let's assume, for the first part of your question, because the Office of Economics asked to see the four, eight, and twenty firm concentration ratios were.

A. I'd say, no.

Q. No, that what? Mr. Joyce didn't?

A. Would have no such authority.

Q. Would have no such authority?

A. I would say no.

Q. Supposing the Office of Economics said they wanted it because they wanted to use it in the Belco case?

A. I would say no.

Q. You're now saying that under no circumstances would Joyce have the authority to give it to the Office of Economics?

A. That is correct. . . . (In the) absence of Commission changes of rule. (?)

Q. When was the permission of the Commission requested to provide the data to the Office of Economics?

A. I can't recall when the Commission itself was requested to provide such data.

Q. Did the Commission ever authorize the data to be provided to the Office of Economics?

A. Prior to the public release of the data and the release of the data to the Subcommittee, I believe the answer to that question is "No."

Q. Did the Office of Economics ever receive such data from the Bureau of Natural Gas prior to the public release?

A. As I say, there was something entitled *Administratively Confidential* that Mr. Joyce supplied someone in the Office of Economics before that, with the concentration ratios—whether they were top four, eight, twenty, or what areas, I don't know.

Q. Well, did Mr. Joyce receive the Commission permission to do that before he did it?

A. To my knowledge, no.

Q. Has he been reprimanded since then?

A. I do not know.

Q. Does the Commission believe Mr. Joyce had no such authority to give it do the Office?

A. I don't know what the Commission believes.

Q. It's your personal belief?

A. It's my personal belief that he had no such authority.

Q. Why are documents that are received in confidential fashion by the Federal Power Commission restricted only to certain offices for use?

A. I don't think they are—they are restricted only to the context that they are to be delivered to Larry Mangen. They're restricted only to the context that the order specified that the documents were to be delivered to Larry Mangen.

Q. That didn't bar anyone else from using it, did it?

A. The underlying work papers?

Q. Yes.

A. I would say the order would.

Q. You mean Larry Mangen and Larry Mangen alone was the only person that could have looked at the 79 responses?

A. . . . The only person in the staff of the Federal Power Commission, I believe that's a correct interpretation, yes.

Q. You don't think he would be authorized to have any of the people working for him help him do some of the ministerial posting to work sheets and arithmetic calculations?

A. Under the literal terms of our order, no.

Q. Well, if he—

A. In the pragmatics of getting the composite out, yes—there has to be some delegation but in the literal terms of the order, no.

Q. Well, do you think he violated the terms of the order by letting people in the BNG Office help him?

A. I don't know—literally, yes. The order speaks of "Larry Mangen." It doesn't talk about agents or people he's going to delegate it to, so I guess, literally, it would.

Q. Well, the order speaks of Larry Mangen, as I recall, only in respect of making him custodian of the documents.

A. That is correct.

Q. It doesn't restrict use or dissemination to Larry Mangen, does it?

A. Oh, but he's responsible for maintaining them in a confidential status.

Q. Well, what do you construe "confidential" to mean—that no FPC employee can look at it? I mean, wouldn't "confidential" be construed to mean that it could be used by FPC persons for FPC purposes?

A. No. We would not so construe it.

Q. Do you believe that the Office of Economics' effort to obtain the concentration ratios had a valid FPC purpose?

A. I don't know what you mean by "valid FPC purpose."

Q. Well, do you think their effort to obtain information was an effort made to discharge what their responsibilities are?

A. I don't know why they ought to obtain the data. I don't know what their motivations were—outside the context of the one instance where they apparently did want the data to introduce in the so-called Belco suit.

Q. Do you think that would be a valid purpose for trying to obtain the data?

A. I don't believe that was the purpose under which the data was collected under R-405, and I would say no.

Q. Granted, it was obtained for a different purpose under R-405.

A. Unless there was consent of each and every one of the 79 producers I would say no, they would be prohibited from doing that without full Commission authorization or amendment to that order.

Q. Even if they presented it in aggregate form?

A. At that point in time, yes. Now, when we publicly decided as a Commission to release it, fine, and they got it the same time everybody else did.

Q. But you would say before it was publicly released (?) present four, eight, and twenty firm concentration ratios—

A. Without Commission authorization, without amendment to our order under which we collected the data, yes, they would have violated the terms of the order, and the Bureau of Natural Gas, I believe, would have violated the order in forwarding that data to them, administratively confidential or not.

Q. To your mind, are you absolutely certain that Mr. Joyce transmitted the data to the Office of Economics without prior Commission approval?

A. I'm never absolutely certain of anything, but to the best of my knowledge, no Commission authorizations was given.

Q. Are you aware of any discussions concerning whether—

A. Prior to his sending it, no.

Q. Subsequent to his sending it, was it discussed—upon what basis he sent it?

A. Yes, it was. But I don't remember why or in what context, other than the overall investigation. . . . But it was discussed *after* he had sent it. . . . and after the period, let's say, approximately beginning May 21 and thereafter. . . .

Q. Was the upshot of the discussion you're aware of that he should or should not have sent it?

A. I think probably the consensus of the Commission was that they did not see anything wrong with him sending that.

Q. Did *not* see anything wrong with that?

A. Yes.

Q. . . . Have any instructions been issued upon or by the Commission or the Chairman respecting the obtaining of information by one office from another office?

A. Yes. . . . I believe so, and I don't know what they are. . . . I'm referring to what I *think* was a memorandum supplied at the hearing date, but I can't recall whether it was an instruction from the Chairman or an instruction from Mr. Maxson, with regard to requests for information.

Q. To whom was such instruction issued?

A. I don't know whether it was Chiefs—"Chiefs?"—well, Heads of all operating Bureaus or whether it was just the Chief of the Office of Economics—I don't know which one, or both,—that it was. . . . I was not involved in any discussions or any decisions respecting that.

Q. Who made that decision?

A. I don't know. You see, I wasn't involved at all.

Q. Did you make any recommendation respecting it?

A. No, I had nothing to do with it.

Q. Do you know *why* the Chairman or someone else decided that requests for information in the possession of one office desired by the Office of Economics had to go through the Chairman's office?

A. No, I do not. I don't know whether it was just for the Office of Economics, as I say, or for all operating bureaus, but the directive was, I assume, just promulgated in writing some regulation—not regulation, but some procedure by which it can be followed—such requests.

Q. Was the order issued because of the effort by the Office of Economics to obtain the concentration data in R-405?

A. I have no idea. As I say, I was not involved in the discussions, decisions, or recommendations reflected in it.

Q. Do you know whether employees in the Bureau of Natural Gas regarded the Office of Economics as a "pain in the neck"?

A. I don't know.

Q. Have you ever heard the Office of Economics referred to by anyone as being a "thorn in the side" of the FPC or certain of its employees or Commissioners?

A. I've heard the Office of Economics referred to as being less than cooperative in my agency.

Q. Who did you hear refer to the Office in such terms?

A. I've referred to it in such terms.

Q. Who else did you hear refer to them in such terms?

A. I can't recall anybody specifically.

Q. Did it include members of the Federal Power Commission?

A. It could very well have included members of the Federal Power Commission. I think in the transcript of the June 26 hearing, there may be some inferences you can draw with respect to the Chairman's thoughts on that.

Q. Did you ever hear the Chairman refer to the Office of Economics in such terms?

A. "Such terms"—are we still talking about the "thorn in the side"?

Q. "Thorn in the side" or similar colloquial terms?

A. Expressed some concern in respect to, let's say, discussions of the Commission meetings, which are by nature confidential, and the appearance of the substance of such discussions in newspaper articles the following day, and he was concerned about that. Possibly the source of such so-called leaks may have been the Office of Economics.

Q. Why was it suspected that the leaks were from the Office of Economics?

A. Well, leaks never happen unless there's an Office of Economics representative in attendance at the meeting.

Q. . . . And from that it's deduced that the leaks occur in the Office of Economics, is that right?

A. More—or not from other offices, by manner of exclusion.

Q. How many leaks have occurred that you're aware of?

A. I don't know.

Q. Well, when was it pinned down that the leaks only occur when the Office of Economics has a representative present?

A. I don't think it's been "pinned down"—it's always been, let's say, supposed or inferred; it's been the assumption—the assumption let's say, since I joined the Federal Power Commission as a trial attorney in April of 1971. In fact, when I was at the Federal Trade Commission, I was told that if I wanted to find out anything at the Federal Power Commission, I was to talk to David Schwartz of the Office of Economics.

Q. You mean, secret type stuff you were told you could get from Schwartz?

A. That I could get the "inside story" on what really went on with gas reserves.

Q. Did you ever try to obtain such information?

A. No. . . . The instructions agreed upon by the supervisory people in the FPC and the FTC was that this would be a—not a "screening" but at least initial contact through General Counsel's Offices and Director of the Bureau of Competition's, but I can't recall ever following that up.

Q. Who told you that if you ever wanted the inside story on gas reserves, you could get it from Schwartz?

A. I can't remember if it was John Flynn or Walter somebody on the staff of the Subcommittee.

Q. This Subcommittee here?

A. (inaudible) . . . he was an economist and I honestly don't know his name. I thought it was Walter, but I don't know—on the staff of the Subcommittee—this Subcommittee.

Q. Did you ever learn that from anybody on the staff of the Federal Trade Commission?

A. No.

Q. Now, was the context of what you were told in the context of proprietary FPC information or public information including Schwartz's views regarding the reason for the shortage?

A. It was more the latter.

Q. Public information?

A. Views—and how reserve data is reported by, how *he* felt it was reported. I don't recall the context ever being that you could obtain a document from him

that was an FPC document that was proprietary—nothing along that kind of thing.

Q. Yes. I'm trying to pin down your basis for believing that the leaks occurred in the Office.

A. That's not my basis for believing. I had heard that those leaks occurred; I had heard that the leaks did *not* occur when Office of Economics people were *not* present, and I was told prior to coming to the Federal Power Commission that if I wanted information—it's not information, it's, say, oral help or oral interpretation or advice, this particular person would be very helpful.

Q. I'm pressing because it's a serious matter that concerns accusing a person or an Office of leaks—

A. I'm not making any accusation whatsoever. . . . Simply reporting to you the basis under which some people believe that—

Q. Well, did the Commission ever try to track down where the leaks were coming from?

A. I don't believe so—they may have. . . . They have better things to do with their time than that.

Q. Well, were they concerned about the leaks?

A. I believe they are concerned about it; have been concerned about it in the past.

Q. You can't remember the nature of the leaks, though, is that right?

A. . . . No, I can't now.

Q. . . . Could the . . . You mentioned that maybe someone named Flynn and someone named Walter

A. I'll retract that name "Walter"—all I remember is I don't know the name—he was an economist—

Q. Was it Measday?

A. I'm not sure about Measday. I think he was about 6'2", let's say in his 50's, kind of short hair, glasses, as I recall, mustache—not skinny, but not fat—he was kind of stocky.

Q. Be that as it may—

A. And I don't recall the name—I don't recall the name.

Q. OK.

A. See, there were some two or three, let's say, not interviews, but consultations with this Subcommittee on the FTC investigations, because it was initiated at your Senator's request, so we talked to some people of the staff on the level up here, generally—because the staff had been doing something prior to Senator Hart's interviews, and we didn't want to duplicate or go over each other's tracks.

Q. As I understand it, the staff of this Subcommittee was providing the Trade Commission with leads and with the identity of people who would be knowledgeable in the area and with giving them background on what their philosophy would be—being oriented toward believing everything is OK or being oriented in having the viewpoint that the shortage might be the result of conspiracy and the like.

A. Well, I just—all I recall is leads.

Q. With leads "d"—not with a "k"—right?

A. Leads and leaks, if you want to go back to Schwartz, too, yes. That name was provided to me.

Q. For leads—to get leads from Schwartz, not to—

A. To go through him as opposed to going through the procedure set up between the two line supervisors of the respective agencies.

Q. You mean that you were advised that if you went through the General Counsel's office, through Mr. Gooch, of the Federal Power Commission that you wouldn't be getting the information you really needed?

A. Not necessarily that far—let's just—Mr. Gooch would be—the innuendo, I believe, was there that Mr. Gooch would be less than cooperative in providing the people inside the FPC who might know the "real story."

Q. Did Mr. Gooch ever provide you with access to FPC economists?

A. I don't believe we ever got that far. The extent of *my* discussions that I was involved in was where AGA reserves fit into the ratemaking thing and there were several geologists and lawyers and what have you to explain that to us.

Q. Have you ever heard the Commissioner of the FPC express the interest of either abolishing the Office of Economics or reclassifying several positions to Schedule C for Political?

A. I've heard discussions along that line.

Q. Can you indicate to me who the people discussing it were?

A. If you'll indicate to me why that's relevant to this inquiry.

Q. Motivation for destruction of documents.

A. Restructuring the Office of Economics? I don't understand what that has to do with it.

Q. Direct relations as to whether Mr. Mangen or Mr. Joyce could have gotten cues from the Commission because the Commission knew that the Office of Economics wanted to use it in the Belco case and that the Commission had a basic mistrust of the Office of Economics and in the past had indicated such a mistrust through various and sundry ways, such as possibly discussing abolishing it or reclassifying some positions to Schedule C.

A. Accepting that long causal connection, I'll answer the question, but I still don't believe it's relevant. The—I've heard discussion of, and I was present at a meeting where I believe Mr. Maxson had recommended abolishing the Office of Economics. I took—"abolishment" did not mean, as I recall, firing, but more or less, probably incorporating its personnel into existing line functions. I've been at similar discussions where it was thought about transferring certain people from the Office of Economics to different functions in the Commission. I know that the Chairman has rejected these—he's very much interested in a strong Office of Economics as a vital function of the Federal Power Commission. At the same time, the Director of that Office is not scheduled—well, I don't know what you'd call it, but he's more or less protected from a—he enjoys more luxuries(?) than I do in terms of job security.

Q. You mentioned Mr. Maxson as one person who recommended it and you said you had heard other discussions, but you didn't identify the sources of those discussions.

A. Well, the other discussions probably between myself and the Chairman and Webb Maxson also—the initiators being Webb Maxson and maybe myself.

Q. Well, why did Mr. Maxson give consideration to doing that, do you know? A. I don't know.

Q. Was Commissioner Moody involved in discussions concerning the Office?

A. He may have been, but the instances, I recall, no. In fact, most of the instances I recall predated Commissioner Moody's appointment. I can't recall any since then that were any. . . . (shuffling through papers)

Q. When . . . What are the ground rules for when salary increases within the Federal Power Commission must be reviewed by the Commission?

A. I have no idea.

Q. Do you know if any are reviewed by the Commission?

A. I have no idea. I'm sure the Chairman must review some salary increases, but I don't know what any of the procedures are.

Q. Do you know whether ground rules exist that preclude salary increases to an employee who is participating in an adjudicatory case that is either ongoing or *sub judice* by the Commission?

A. I have no idea. . . . I don't know of any such rule. I don't know of any rules on salary increases, period, on the Federal Power Commission.

Q. . . . (long pause to 668) We'll take a five minute recess. I have no more questions, Mr. Diener. I'd like to thank you very much and I'd like to know if there's anything else that you would like to add to the record, please feel free to do so.

A. I don't believe I have anything else to add.

Q. The time is now 2:10 P.M. and because this is a preliminary Subcommittee investigation, because the identity of all the interviewees is not yet fully determined, and because the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are requested not to discuss the substance of this interview with anyone other than your own personal attorney.

A. All right (inaudible).

Q. Thank you.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY STAFF INTERVIEW WITH LEO K. FORQUER, FPC

Q. Mr. Forquer, since the nature of the conduct being investigated may amount to violations of one or more Federal laws, we believe it only proper that you be advised of your rights. You have the right to remain silent and to refuse to answer any questions you feel may tend to incriminate you. Anything you do say can be used against you in any other proceeding. You have the right to have the counsel of your choice with you during questioning, and the right to talk to him for advice before we ask you any questions and before you answer any questions. If you desire to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop

answering at any time till you talk to a lawyer. Let me show you the paper I was reading from and ask you to look at it and take as much time as you want and tell as whether you agree to be interviewed.

A. I am quite agreeable to being interviewed.

Q. If you can look at the paper and sign it.

A. Sign it? Yes.

Q. Thank you, Mr. Forquer, we're going to ask you a series of questions and we hope and want you to understand that there is no basis of accusation or innuendo or pre-judgment intended. It is only a means of eliciting information from all witnesses in obtaining necessary background information to evaluate all of the circumstances involved. As you know, that's the only way you can proceed when you're trying to investigate something you're not sure about.

A. Certainly.

Q. Would you state your name and address for the record, please?

A. Leo K. Forquer, 3903 Walton Rd., Bethesda, Md. 20034.

Q. And what is your present position?

A. I am General Counsel of the Federal Power Commission.

Q. How long have you been General Counsel?

A. In an acting capacity since the latter part of July 1972, and as General Counsel since November 13, 1972.

Q. And what were you and where were you employed before that?

A. I've been employed with the Federal Power Commission for the past 18 years. For the year immediately preceding my appointment as Acting General Counsel, I was Solicitor of the Commission. For about 9 years prior to that, I was Assistant General Counsel in charge of Gas Producer Rate Matters. For the remaining time, I was a Trial Attorney.

Q. Mr. Forquer, you were asked to bring with you all writings of any nature whatsoever, whether draft or final, including diaries, logs and records of telephone conversations referring or relating to use, release or disposition of the documents involved in the attempted destruction. Have you made a search, and are you prepared to comply with that request?

A. I have searched my files and have with me such documents as I could find. I have no recollection of any telephone calls relating to this matter although I do not keep a log of telephone conversations; and I know of no other conversations or papers other than those I have tendered to you.

Q. Can you provide for the record the documents you have found with your search?

A. The first is a memorandum dated June 14, 1973, to the Executive Director advising him that Commission employees should not reveal the contents of data received by the Commission under the assurance of confidential treatment and provided, and stated, that only the Commission can authorize any change in its rules or orders.

Q. We'll mark that Forquer Exhibit 1.

A. The second is a memorandum dated June 15, 1973, from me to the Chairman of the Commission reviewing the question of the Commission's right to withhold data received on a confidential basis.

Q. We'll mark that Forquer Exhibit 2.

A. The final item is comprised of two memoranda, one from the Executive Director and one from Chairman Nassikas to me requiring me to search my desk, files and office for any communications or other matters relating to the subject of the subpoena served by the staff of the Subcommittee on Antitrust and Monopoly on the Chairman, I believe on June 21, 1973.

Q. We'll mark those Forquer Exhibits 3A and 3B.

Do you want copies to take back with you, or do you want us to xerox it and keep copies and give you the original back?

A. I think I have copies of 1 and 2, and I don't know that I need the others for my files. It doesn't make any difference.

Q. Can you tell us a little bit about the responsibilities you have as General Counsel and the people to whom you report?

A. Well, of course, the General Counsel is in charge of all legal matters in the Commission, and is an advisor to the Commission when they request it. Generally speaking, it involves the supervision of the work of the other lawyers. However, the way the office is set up, there are Assistant General Counsel in charge of the various matters within the jurisdiction of the Commission, and they are in direct day-to-day contact with such questions as might arise. A good deal of my time has to be spent on administrative and personnel matters and things of that kind.

Q. What about policy matters?

A. Well, if the Commission requests my views on policy matters, yes. If they don't, no.

Q. From your answer, is it correct to infer that you're not consulted to a significant degree on policy matters?

A. It varies. Sometimes, yes; and sometimes, no.

Q. Do you advise to a significant degree with respect to natural gas policy matters?

A. Well, again, if I'm requested to do. Now, my background and area of expertise is more in the field of natural gas regulation than it is in the power field. It's difficult to answer that. I—Sometimes I'm consulted. Sometimes I'm not.

Q. Well, let's try to break it down by particular important subject area. Did you—well were you consulted in and did you render a substantial amount of advice with regard to the Commission's adoption of the optional pricing mechanism?

A. I was present at Commission meetings—at least the ones at which the staff were present—at which this was discussed. I made some suggestions with respect to it. I can't say that I was consulted as to the policy. I think it was the Commissioners themselves that did that.

Q. Did you render advice to the Commission questioning the legality of that procedure under the Natural Gas Act?

A. There was one aspect of it where I had some doubts as to the legality of it. That related to the ability of natural gas producers to put their contract rate in effect not subject to refund at the expiration of 6 months after the deliveries had started in the event the Commission had issued no decision on the application.

Q. Did you render any advice questioning the legality of optional pricing insofar as it eliminated costs as a primary consideration in rate making?

A. Let me think. It eliminated costs, if I remember correctly. I think that one of the aspects that could be considered would be costs. So, no, I didn't raise that question.

Q. Do you advise the Commission in connection with deciding adjudicated matters?

A. You mean their opinion?

Q. Yes.

A. Frequently, yes.

Q. Does that get into a problem with the separation of functions?

A. Well, what I generally do is disassociate myself from the trial of the case in order to feel more free to, if I'm called on to, offer advice when it comes before the Commission. The trial counsel and in some cases perhaps the Assistant General Counsel are more directly involved in issues that might arise in the hearing.

Q. Were you called upon to render any advice in connection with the Belco proceeding?

A. No.

Q. Prior to the—prior to your first learning of the attempted destruction of certain material respecting R-405 updated, were you aware of the destruction or attempted destruction of any other documents in possession or files of the Federal Power Commission?

A. I have no recollection of any knowledge of that prior to the time that this came up.

Q. Let me just hone in a little specifically to see if it rings a bell or not, because based upon the investigation so far certain matters have come to our attention. Do you have any recollection of the destruction of any documents in connection with AR-69-1, the Second Southern Louisiana proceeding?

A. No.

Q. Not present recollection, but knowing about it before you first learned of the attempted destruction by Mr. Mangen?

A. I don't think so. I have searched my mind to figure out whether I had heard of that and—I can't be positive, but I have no recollection of having heard of it prior to this time.

Q. What would your position in the General Counsel's office have been when AR-69-1 was tried?

A. I was Assistant General Counsel in charge of gas producer rate matters and should have had supervising authority over that case. It's my recollection, and this may be unfair, but it's my recollection that my predecessor, Gordon Gooch, pretty much took charge of that particular aspect of it. I have no recollection of being involved in anyway in the obtaining of this information or of disposing of whatever records may have been kept.

Q. As I understand it, then, Mr. Tourtelotte was the trial attorney in that case. Is that right?

A. No. No. Mr. Richard Mattingly (???) was the Commission staff counsel in the case. Mr.—I'm sure that Tourtelotte had nothing to do with the trial in the case. Whether he was involved in getting this data—I don't think so. I think it was a subsequent one which Tourtelotte, Brady and Williams were involved. I may be wrong, but that's my recollection. I didn't bring with me a copy of the Commission's order in that case, so I can't be sure.

Q. Well, we have it, and we're going to check it. But, anyway, let's talk about AR-69-1 for another few moments even if we can't be sure if Mr. Tourtelotte was involved in that or not. As I understand it, you were Assistant General Counsel in charge of natural gas type cases, is that right?

A. Producer rate matters.

Q. Producer rate matters. And AR-69-1 was a producer rate matter.

A. Right.

Q. And Mr. Mattingly was trial counsel, as you recall it. And you're not sure who was responsible for collecting that information or destroying it if it was destroyed. Is that right?

A. It seems to me that Mr. Mangen was the responsible official, if I remember correctly. That's my recollection.

Q. Did you devise the mechanism, or did you devise the mechanism for verifying the reserves that the Commission relied upon in AR-69-1?

A. I don't think I know. It was set out in the order, wasn't it?

Q. Not AR-69-1—that's the ----- case.

A. Yeah, I know. I thought the order provided for some documents to be given to some accounting firm, and for staff review of it. Am I incorrect in that?

Q. I would hesitate to say whether you are incorrect or correct. We'll verify that later on.

A. That's my recollection. I haven't looked at the order for some time but that's my present recollection.

Q. Why—to your knowledge, why did Mr. Gooch direct the conduct of that case rather than yourself?

A. I don't think I can answer that. I assume he was greatly interested in it and wanted to see that it was done according to what he thought was appropriate.

Q. Can you recall any other cases under your jurisdiction in which you didn't play a supervisory role but which the General Counsel supervised?

A. Well, there were a series of orders in which the Commission obtained the prices of intra-state gas sales which Mr. Gooch supervised and I think in which Mr. Williams and Mr. Brady and Mr. Tourtelotte were the investigating officers. I had nothing to do with that.

Q. Do you have an opinion as to whether the verification of the accuracy of reserves in AR-69-1 was carried out in a fully effective manner?

A. I had no knowledge of it one way or the other. I just assumed it was. I don't know.

Q. Turning now to R-405 original. As we understand it, allegations have been made that certain documents in that matter were destroyed. Prior to your learning of Mr. Mangen's action in R-405 update, did you have any knowledge of R-405 original destruction?

A. No, sir.

Q. What was your position during that matter?

A. Well, let's see. I've forgotten what the time frame was.

Q. Nov. 1970, approximately.

A. I would have still been Assistant General Counsel in charge of gas producer rate matters.

Q. Would you consider R-405 original a gas producer rate matter?

A. Sure.

Q. Did you have any supervisor in responsibility at all?

A. None whatsoever.

Q. Did you have any connection with it at all?

A. None whatsoever.

Q. Who was responsible for devising the system of collecting the data from the gas companies?

A. I would assume Mr. Gooch. Certainly, I think he dealt with Mr. Williams, Mr. Brady and Mr. Tourtelotte, to the best of my knowledge.

Q. Was Mr. Tourtelotte someone who was under your general supervision in other matters?

A. No, sir.

Q. Who did Mr. Tourlotte report to? Who did he work for?

A. As I recall, he was in the branch of the office of general counsel which had to do with power matters at that time.

Q. Did he—

A. Excuse me, I think that these men were selected because they were free at that time to do this work. That's my recollection. I'm not sure.

Q. Would you say someone knowledgeable in power matters, without more expertise had the requisite knowledge to understand what they were doing in gas matters—in connection with R-405 original?

A. Not necessarily. But I don't know—if I understand what happened, all they did was copy figures that somebody gave them.

Q. Do you know how the system for collecting data and verifying data was designed and by whom?

A. I do not know.

Q. To your knowledge did Mr. Tourlotte report to anyone other than directly to Mr. Gooch?

A. I don't know. I'm assuming that. I just don't know.

Q. Do you know where the R-405 original documents and workpapers presently are?

A. No, sir.

Q. Do you know whether they exist?

A. No, sir.

Q. Do you know whether anyone in the Commission, since this Mangen episode, inquired about where they are and whether they exist?

A. I think they have and I searched the files—it is a locked file—in the Office of General Counsel—I searched it to find out whether any such documents were there and they are not. It is my understanding that it is hearsay that they were delivered to the Office of Administrative Operations to be put in a safe, but I don't know whether they are available or not.

Q. And I take it Mr. — is the chap in charge of that office you refer to.

A. That's right.

Q. Could we impose upon you when you're free, sometime after you leave today—anytime this week, or next week, to make an inquiry in your capacity as General Counsel to ascertain directly from persons who might have knowledge or who might have possession of those documents to see, where they are, whether they exist or whether they have been destroyed and report back to us in some kind of a written form.

A. Well, I'd be glad to do that although I understand such inquiries have been made and thus far they haven't been able to find them.

Q. The reason I asked you that is we've had the same kind of information you have and we think now that we've got a higher level official, it would be appropriate for some communication to be made back to us so we have it for our records. We think enough time has elapsed where a decision can be made on whether it exists or doesn't exist.

A. I will be glad to do it.

Q. Thank you. Did you do any work in connection with the Natural Gas Reserve Study?

A. No, sir.

Q. Did you have any knowledge prior to learning of Mr. Mangen's action herein as to whether documents were destroyed in connection with that study. The Natural Gas Reserve study?

A. No, sir.

Q. When did you first learn how and through whom of the attempted destruction of documents and work papers compiled in connection with R-405 updated?

A. I think it was on May 21, 1973. At least Monday—I know it was Monday because it was payday and I had gone to the bank. When I returned I understood that the Chairman wanted me in his office. When I got up there there was a meeting in progress and I gleaned from the discussion that some problem with respect to the destruction of papers and that they had been retrieved and could be pieced together. That was the first time I had any knowledge of it.

Q. Do you recall whether this occurred in the morning or the afternoon?

A. Well, I don't know when it occurred. . . .

Q. No, no, when you learned of it?

A. Well, this was about 2:00 in the afternoon when I got back. I think, if I recall correctly, that must have been the day the Commission received a letter from Senator Hart with respect to the documents. That's my recollection.

Q. Was this by telephone or personal contact?

A. No, I went up to the Chairman's office.

Q. Was anyone else present?

A. Yes, I think Commissioner Brook and Commissioner Moody were there. Mr. Joyce. Whether there was anyone else there, I don't recall.

Q. Apart from the Chairman providing the information that you just related, what else was discussed? Were the circumstances of destruction discussed or the circumstances of the finding of it or what was going to happen to it?

A. My recollection is that a great deal of this must have been discussed before I got there. As I say, I got a kind of piecemeal view of the thing at the time I came into it but I'm a little unsure of how much I learned about it at that meeting. I just don't recall. I know it was with respect to destruction of documents. The Chairman was greatly upset about it and it was indicated to him it could be pieced together again so that they could be restored.

Q. Was any discussion held at that time as to whether other documents of other matters had been destroyed?

A. I don't think so—not to my recollection.

Q. Was any discussion held concerning whether the documents were destroyed because Senator Hart had requested them in a previous letter?

A. I don't think so.

Q. Any discussion concerning whether Senator Hart's request would be honored to supply the data to the Subcommittee?

A. I am not sure—I rather doubt it. I think the concern mainly then was to see if they had all the documents and if they could be put back together. As I recall the discussion.

Q. Were you requested to take any action or to do anything with respect to the attempted destruction?

A. I don't think so at that time. Oh, I believe Mr. Maxson was there at the meeting because I think the Chairman told him to investigate this matter thoroughly. I believe he did at that meeting. But I don't think any responsibility was imposed on me at that time.

Q. Did you have any supervisory responsibility in connection with the trial of the *Belco* case?

A. Not really, in the sense that it was under the supervision of an assistant general counsel and I did not get into it.

Q. Who was that Assistant General Counsel?

A. Robert W. Purdne.

Q. Did you know whether the documents Mr. Mangen attempted to destroy were requested by the Office of Economics for use in the *Belco* proceeding?

A. No, I didn't. Although I later noticed that apparently a copy of Mr. Joyce's memo was sent to me, but I never saw it. Ordinarily I don't get those copies—just file them.

Q. As I understand it, on May 21, somewhere after lunch, around 2:00 p.m. or so, you were in the Chairman's office with the other people you named, and basically the discussion centered around—you put together that Mr. Maxson was told to conduct an investigation and you indicate at that time you don't believe you were requested to do anything. Now, can you tell me when you became involved in this matter again?

A. Well, I don't know. Some time after that in connection with the investigation, it was determined they wanted to take sworn statements from some of the people involved and I think the Chairman told me to conduct the depositions—the questions.

Q. Who made the determination to take sworn statements from the people?

A. I would suspect the Chairman. That is my recollection.

Q. Can you pin down a date when you were told to conduct the interrogation?

A. I can't—if I.

Q. Well, let's assume for a moment we can figure out the date that the first interrogation took place, which we can—we have it someplace.

A. It must be a couple of days prior to that. It might have been 3 or 4 days. I am not positive.

Q. Do you recall who the person was who was interrogated first?

A. I think we had two the first day and one of them was the man in charge of the files.

Q. Vivian?

A. Yes.

Q. And who was the other person that day. Could it have been Mr. Mangen?

A. I don't recall. The transcripts will reflect it.

Q. Well I have two transcripts, Maxson Exhibit 10 and Maxson Exhibit 11 indicating that on June 12, 1973, a Tuesday, Mr. Vivian was interrogated and on June 12, Mr. Mangen was interrogated.

A. Well they were the two then.

Q. So if that was a Tuesday, do you think you got your marching orders Monday or sometime . . .

A. No, I think it was the previous week probably, if I remember correctly.

Q. What were you told to inquire into. Do you recall?

A. What knowledge any of these people had with respect to the destruction of these documents. How it occurred and why it occurred.

Q. Did someone provide you with an outline of what you were to cover or what questions to ask?

A. No sir.

Q. Any restrictions on the scope of your inquiry?

A. None.

Q. Who was present, if you recall, when you conducted these interviews? Apart from the witness?

A. Mr. Maxson and a transcriber.

Q. Did you write up a report when you finished your interrogation presenting your view of the record or your conclusions as to what happened and why?

A. No, sir they were delivered to Mr. Maxson as the investigating officer. I drew no conclusions whatsoever.

Q. Your job then was merely to try to ask the questions and get some answers and present them in that form to Mr. Maxson?

A. Right.

Q. Did you see Mr. Maxson's report that he filed with the Chairman?

A. No, I suspect that was filed right before I took ill and I haven't seen it yet?

Q. Did you have a deadline as to when you were to complete your interrogations?

A. Well I am sure we must have wanted to get it done before the hearings—the June 26 hearings before Senator Hart.

Q. As I recall the dates the Chairman learned of the attempted destruction on or about May 21 and you conducted your first interview of persons who might have knowledge of the matter, namely, Mr. Maxson and Mr. Vivian on June 12. Do you know what kind of investigation Mr. Maxson conducted between May 21 when he was told to investigate it and June 12 when you started to ask questions in his behalf?

A. No, sir, I do not.

Q. Do you know whether he did anything?

A. I assume he did but I don't know.

Q. What else if anything were you requested, or did you do with regard to the attempted destruction of documents by Mr. Mangen?

A. As to the destruction, nothing that I can recall.

Q. Did you participate at all in any collateral matters pertaining to Mr. Mangen's attempt such as ascertaining whether it had occurred in the past ascertaining whether any FPC rules or federal statutes were violated—anything along those lines? Whether disciplinary actions should be taken Mr. Mangen.

A. On the latter, no. It was the responsibility of the Chairman, I think. I think I concluded but I am not sure I really looked it up but nobody has the right to destroy government documents.

Q. Did you provide that advice to anybody?

A. I think it was assumed. I don't think I did.

Q. When you started your interrogation on June 12 with Mr. Mangen and Mr. Vivian how was it determined who the witnesses would be that appeared that day?

A. Well, I guess they were available, but I think there was an intervening period. Mr. Maxson had undoubtedly been having discussions with these various people to find out who might have had some knowledge of it and basically he was the one who set up who should be called and who should be interrogated.

Q. I see. You didn't select the witnesses then?

A. No, sir.

Q. They were provided and you asked the questions.

A. Right.

Q. Do you have any ideas as to who else should be questioned that Mr. Maxson didn't provide to be questioned?

A. I don't think there was anybody there at the time that from what information we got would have any knowledge of it.

Q. Did you do anything else?

A. Not that I recall.

Q. Did the Commission ever ask for a recommendation or an opinion as to whether it was legal to destroy this document?

A. I think it was always assumed it was illegal. They never asked for any written opinion. I think all of us assumed it was improper. It should never have been done.

Q. Did you ever look to see whether there were any outstanding FPC internal instruction respecting the use and disposition of documents?

A. No, sir.

Q. Do you know whether any such documents exist?

A. I don't know.

Q. Did you find out in the course of your inquiry whether Mr. Mangen had received instructions from anyone as to whether to destroy documents or not to destroy documents?

A. As I recall, I thought he testified that nobody had so instructed him. He just assumed it was appropriate.

Q. Did you hear from anyone else as to whether he became investigating officer; he was told by someone what the procedure would be for destroying documents. Did you question Mr. Maxson on the record under oath with respect to his knowledge?

A. No, sir.

Q. Did you question Mr. Joyce?

A. No, Mr. Joyce, as I recall, was not there then. He was on leave.

Q. Are you aware of any instructions that issued subsequent to the May 21 event respecting whether and how to destroy documents? Well, specifically, did the Chairman issue any instructions?

A. I think he did. I believe he did in those circumstances where official government documents, in particular those that came on a confidential basis to be destroyed, I think—now, I would have to search my files to be sure of that, but I am reasonably sure he did.

Q. Can you think of anything else you might have done or any advice rendered or action taken which can be construed to have emanated out of the act of destruction by Mr. Mangen such as render advice as to whether or not the Commission's order holding the documents confidential could be changed by Commission vote, whether these documents could be turned over to private citizens or other governmental agencies, provided to Congress or any collateral work that emanated out of the attempted destruction by Mr. Mangen and subsequent even therefrom?

A. Exhibits, whatever you call them, 1 and 2 are directed to that.

Q. Well, exhibit 1 is dated June 14 and it is to the Executive Director from you and where at some point reading into the record what it says substance we note saying prohibition against disclosure extending from this memoranda, etc. Why did you write that? Were you requested by someone to write that?

A. No, I think I was requested to.

Q. By whom?

A. I don't know whether it was Mr. Maxson or the Chairman—one or the other.

Q. Were you requested to—do you know that the Executive Director sent a copy of your memorandum to each person involved and each person that was contemplated to be called by the Subcommittee?

A. I would assume so.

Q. Did you have to write this because the Executive Director and the Chairman knew that the Subcommittee had been requesting staff of FPC to provide information to the Subcommittee?

A. Probably.

Q. Did they ask for your opinion as to whether or not the material could be provided the Subcommittee or did they tell you to write this memorandum saying . . .

A. No. They asked me for my opinion as to whether an employee could divulge these matters. I felt they could not without a Commission order.

Q. Now I—Exhibit 2 is a document dated June 15 in the form of a memorandum to the Chairman from the General Counsel. I take it that's from you?

A. Yes sir.

Q. It's about 9 pages and in effect, and if I'm wrong, you can correct me, but I believe that in effect recommends that the Commission not provide the 79 responses from the companies to the Subcommittee, because it is not clear whether the Subcommittee is acting—has the authority to make the request

or is it the Subcommittee, is it the Congress itself, or just a group of people. It is not clear whether the Freedom of Information Act exemption applying to the Congress applies also to the Subcommittee of Congress. Is that right?

A. That is correct.

Q. Now, prior to June 15, when you provided this memorandum, did you provide any other memorandum to the Commission concerning the question of whether the documents can or should be supplied to the Subcommittee?

A. No sir.

Q. Did you provide the Commission, or any member thereof or Executive Director, of oral views as to whether the Commission can or should provide the documents to the Subcommittee?

A. I don't think so. I think I waited until I got that together and advised them in writing. That's my recollection.

Q. Do you recall indicating your views prior to when you sent this memorandum that the documents in question can or should legally be provided to the Subcommittee?

A. No. I think that I may have said that I thought an attempt should be made to work this out without getting to this confrontation. That I felt it was desirable when dealing with the Subcommittee and the Congress of the Senate that an attempt be made to work it out so that you didn't get to this position.

Q. Who did you indicate that to?

A. I think to the Chairman.

Q. How long before the June 15 memorandum did you make that indication?

A. Well, now, I'm not sure now whether it was before or after June 15. I'm not sure. I'm inclined to think it may have been after.

Q. Before the subpoena issued, did you indicate to the chairman your view or your opinion that the data requested by the Subcommittee should be supplied?

A. I indicated to him that I thought conversation should be had with staff or with Senator Hart to see if some accommodation couldn't be worked out whereby these data could be submitted hopefully on a confidential basis to the Senator.

Q. Did . . . what was the chairman's response to your recommendation?

A. Well, he indicated to me at the time I talked to him, it was late in the afternoon one day, I don't recall, that he wanted to think that over. I offered a possibility. But, as I recall the next day he was determined to . . . they just couldn't furnish the documents.

Q. Who made that determination?

A. I think the commissioner. The members of the commission.

Q. Did they articulate at that point in time the legal basis for believing they couldn't . . .

A. Well, I think their problem is primarily they didn't want to break their word. . . .

When they got it, they got it under a promise of confidentiality and to breach that they felt it was unfair and unproper.

Q. Now, when you recommended to the Chairman that he try to reach an accommodation with the Subcommittee in talking with Chairman Hart or otherwise discussing the matter, you indicated that he ought to try to accommodate the subcommittee and provide the data as I understand it, hopefully, in some confidential manner. Is that right?

A. That is correct.

Q. You then therefore believe it was legally permissible for the Federal Power Commission to do that?

A. Well, so long as confidentiality was maintained, I . . . was not on a strictly legal basis. I did not want to see the Commission engaged in a confrontation with a Committee of the Congress. I don't think any useful purpose would be served by it and I just don't like that type of thing. It was not on a legal basis, it was more on a practical basis to try to find some way to work this out.

Q. It's . . . though isn't it that you didn't believe it illegal for the Commission to do that. Did you?

A. No, I didn't think it was illegal obviously.

Q. How would you square that with your opinion in the June 15 memo that under the Natural Gas Act the Commission is precluded from furnishing the data.

A. Well, I think that they have the statutory right to grant confidentiality and when they do, they should keep it. Now, whether you are breaching that by furnishing on a confidential basis to a committee of Congress, I have some doubts whether that breaches the confidentiality.

Q. Are you really saying that you believe the Commission had the power to modify its order, but until the Commission modified its order, then it couldn't produce the data to anyone?

A. Well, I think that's probably true.

Q. Now, with respect to the argument about the powers of the Subcommittee. Strike that. When you wrote this memorandum setting forth recommended action in response to Congressional committee request for confidential gas reserves data in the custody of the Federal Power Commission, your ultimate conclusion was that the Federal Power Commission should not provide it . . .

A. That is correct.

Q. (Continued.) To the Subcommittee. Now this is a little bit in variance with what you just indicated in your oral recommendation, at least to the Chairman. Now, did you write this memorandum in this fashion because you were asked to give a legal basis for not providing it?

A. No sir. As I indicated to you in my suggestion, the Chairman was more a, what I thought, was a practical way to approach the problem. Technically, it probably violated what I said in my memorandum, but I felt that no useful purpose would be served by, as I said, confrontation. Hopefully, it could be avoided.

Q. In terms of giving a formal written recommended action and if you felt so strongly about avoiding a confrontation with the Congress, I don't understand why you didn't spend at least one of the 9 pages and maybe all 9 pages, saying, hey, let's do it this way. Let's meet with Chairman Hart. Tell him the substance of what we have. Tell him why it would be dangerous to reveal it to the public and see if we can't reach an accord that will help the Subcommittee accomplish its purpose through either giving it to them in a confidential way or giving extracts from it or something like that. I am getting the impression from what you are telling me that at the time you wrote this memorandum, you knew the Commission didn't want to furnish it, so you gave them a legal analysis.

A. No, I think they probably did not but the opinion was not written because of that. I still think that legally they can't be forced to divulge this but there are practical ways to try to accommodate the various views and all I was trying to do was avoid this confrontation which I thought was imminent.

Q. Can you give me an indication of why you didn't spend any words, or sentences or pages in this routine memo giving them the practical way out.

A. Because that was a legal memo. Certainly, that advice, that suggestion I made to the Chairman was not a legal suggestion.

Q. Well its entitled recommend an action in response to Congressional Committee requests for confidential gas reserves data.

A. Right. As a legal matter I thought they should refuse to furnish it.

Q. Did you convey your practical suggestion to anyone other than the Chairman.

A. No sir.

Q. Do you know before the Commission's refusal to furnish it the Commission consulted with anyone outside the Commission?

A. I don't know, I doubt it. I don't know.

Q. Do you know whether they communicated with any of the oil companies involved.

A. I'm sure they didn't. Other than advising them of the order they issued with respect to the . . . that they were going to comply with the Committee. I have no personal knowledge, but I would doubt it very much.

Q. Do you know whether they communicated with officials of the Office of Management and Budget?

A. I have no knowledge. I wouldn't know.

Q. Do you know whether they communicated with any White House personnel?

A. I would have no knowledge.

Q. Do you know whether they communicated with Mr. Gordon Gooch.

A. I don't know. Again, I doubt it. As to all of them, I don't know.

Q. Well, OK, you gave them the June 15 memorandum and I take it after that they wrote Chairman Hart saying that they declined to produce it because of the Freedom of Information Act and the Natural Gas Act and that was on reliance on your memorandum.

A. I think that's right. I guess. I don't remember.

Q. Did you draft the letter?

A. No, sir.

Q. Did you see it before it went out.

A. I can't be sure—I don't have any recollection of it, but I rather doubt it.

Q. Do you know who drafted it.

A. No, sir.

Q. To your knowledge, what happened within the Commission after the Commission sent the letter out saying they were not going to produce it. Were you consulted about anything else.

A. No, not that I recall.

Q. When did you become involved the next time?

A. When the subpoena was served.

Q. How did you find out about it.

A. I think the Chairman called me at my home and told me that he had been served with a subpoena ——. I have forgotten the date. I think it was on Thursday.

Q. Was it in the evening?

A. Yes, I believe that's right and he was going to have a meeting in his office the next morning and wanted me to be there. And I was.

Q. Who attended the meeting?

A. The Commissioners. Commissioner Brook, Commissioner Moody and the Chairman and I was there. I suspect Mr. Maxson. I don't know if there was anybody else there or not.

Q. Legal assists?

A. Possible that Mr. Diener was there—I don't know.

Q. Can you relate the substance of the discussion.

A. Well, I think as I recall it was the conclusion of the Commission that it would have to honor the subpoena, and they would issue an order of the character they subsequently did issue, directing the Chairman to respond and furnish the documents. I didn't draft the order and I think I saw the draft, I'm not sure.

Q. Did you make any comments on the draft?

A. No, sir.

Q. Do you know who drafted it.

A. I better not say because I'm not sure. I don't know whether it was drafted in the Chairman's office or not.

Q. Was it drafted by Mr. Frank Allen and Mr. Diener.

A. I can't answer that—I don't know. I never did see the concurrence of Commissioners Brook and Moody prior to its issuance, all I saw was the draft of the order itself.

Q. Did the Commission, at the meeting you attended, indicate that they wanted it to be drafted along the lines that it came out.

A. Oh, I imagine so, I don't have any distinct recollection, but I certainly assume this.

Q. Did you ever hear Chairman Nassikas characterize his belief as to the motives of Senator Hart.

A. No, sir.

Q. Did you concur with the Commission's compliance with the subpoena? Were you asked to recommend whether they comply or not.

A. No, sir. I was in compliance with it myself. In agreement with it myself.

Q. Do you recall who suggested that the Commission extend an invitation to a court of competent jurisdiction to enter a restraining order.

A. I can't tell you who, if anybody, somebody brought it up obviously, and the Commissioners all agreed. Now I don't know who first said that we ought to do this so that people had an opportunity to go to court if they wanted to.

Q. Do you recall whether it was Commissioner Moody?

A. It could have been.

Q. Did you do anything else as far as getting the Commission ready to comply with the subpoena?

A. No, sir.

Q. So far you have indicated your role included taking testimony from people with knowledge provided by Mr. Maxson. Second, giving some practical advice to the Chairman. Third, giving a legal memorandum to the Chairman. Fourth, attending the meeting at which the Commission concluded to comply with the subpoena. Can you think of anything else you did in connection with the destruction, in connection with the Subcommittee's efforts to get the documents, or in connection with the Office of Economics efforts to get some of the data for use in the *Belco* Case.

A. Yes.

Q. After the vote to comply with the subpoena, and with knowledge that hearings. . . .

A. Oh, excuse me, I think I was in a meeting where it was determined to give the Office of Economics some concentration ratios based on this documentation. If I remember correctly, the top 4, 8 and 20 or something like that.

Q. When was this roughly. Before what event that we've been talking about or after what event. After the subpoena, before the subpoena—

A. I think that was before the subpoena. That is my recollection.

Q. After the May 21 meeting which documents were found.

A. Oh, I am sure it was after May 21 meeting, but before the subpoena, is my recollection.

Q. Let's try some other events. That's the best way we find to pin down dates. No one remembers dates exactly, but if you can think of events it becomes easier. Let's see, what else happened between May 21 and the issuance of the subpoena. Senator Hart's letter saying we are having hearings, bring the documents with you to the hearings.

A. Mr. Nash, I don't think, I really don't know but there must be a memorandum or something with a date on it in which these data were furnished to the Office of Economics. The conclusion was made probably the day before.

Q. O.K. Let's try to pin it down. Thinking about that, were was the meeting held. Who was there.

A. I think it was in the Chairman's office. Commissioners Brook and Moody, Mr. Diener. I don't know whether Mr. Joyce was there and perhaps Mr. Maxson, or not.

Q. What was the substance of the discussion?

A. I think the question was whether—as I understand it, and I know very little about it, these concentration ratios — for this 4, 8 20 sequence, and I think the question was whether consistent with the confidentiality promised, that they prepare these concentration ratios and make them available. The Commission concluded that they could and directed that they be prepared and furnished.

Q. To the Office of Economics?

A. Yes. And I think put in the public file, if I remember correctly.

Q. Now, did they also discuss giving that to Senator Hart.

A. Oh, well, I assume, if I remember correctly, when they are put in the public file, they are available for Senator Hart or anybody else.

Q. Were those the concentration ratios the Chairman attached to his testimony.

A. I suspect he may have.

Q. Were you involved in decisions before that as to whether to give concentration ratios to the Office of Economics.

A. No, sir.

Q. In your view, as General Counsel of the Commission, the Commission gets information under an order that it will be maintained in confidential status" to your mind does that mean that confidentiality precludes Commission personnel who are discharged with their responsibility from viewing it as well as the public at large.

A. It is not my view that it be withheld from them although I don't think they should use it for public purposes but I think they should have access to it.

Q. Yeah, I mean, if something is confidential than obviously any Commission employee who breached the order would be in a lot of trouble. I take it you don't believe the order applies to other Commission employees if they are working on a serious matter and had an actual need for it.

A. That would be my viewpoint.

Q. I take it you were never consulted as to this.

A. No, sir.

Q. Are you aware that the Chairman has now issued an instruction to the Office Economics that before it makes requests of any other office or division for data, that it must be channeled through Mr. Nassikas for approval.

A. No, sir.

Q. I take it you weren't consulted about that and had no knowledge.

A. No, sir.

Q. Was your office ever given such instructions. That before you try to get data that's deemed confidential from another office or bureau you channel that request through the Chairman.

A. If we have, I don't recall it.

Q. After the issuance of the subpoena, did you do anything in preparation for hearings.

A. No, sir.

Q. Were you asked to communicate with any potential witnesses.

A. No, sir.

Q. Did you communicate with Mr. Howard Pifer?

A. Who?

Q. Howard Pifer.

A. Is he the Harvard professor?

Q. Yes, sir.

A. He called me because somebody had a question with respect to confidentiality in connection with his testimony, and if I recall, and he told me that he had no access to any confidential information. That he was furnished some type of—I don't know what he called it—which he used, and I said I saw no _____ in his testifying about whatever he wanted to. That's my only contact with Mr. Pifer.

Q. He called you, you say?

A. Yes, I think he called somebody as I recall, he must have called somebody in the Commission who suggested he talk to me about it. He apparently was concerned about—or maybe whoever he talked to was concerned about breaching the confidentiality, as I recall. He called me and—As he explained what he had before him when he made whatever study he did, I said I couldn't see where it breached any confidentiality.

Q. Do you know who he spoke to at the Commission? Was it Dr. Root?

A. It probably was. That is my recollection it was. And, now, Dr. Root may have called me before I heard from Dr. Pifer, I don't know, I think I talked to both of them, if I remember correctly. I think this was the day before the hearing.

Q. The day before the hearing?

A. I think so, yes.

Q. Did—Was it indicated to you either by Dr. Root or Dr. Pifer that it was not desired for Dr. Pifer to testify at the hearing.

A. No.

Q. Did Dr. Pifer indicate to you that Dr. Root so suggested to him?

A. I don't recall anything of that nature.

Q. Did you, directly or indirectly, indicate to Dr. Pifer that it would not be in either his or the Commission's best interest to testify before the Subcommittee?

A. No, sir.

Q. And I take it you have no knowledge of any Commission employees so suggesting to Dr. Pifer?

A. No, I don't think Dr. Pifer told me anything of that character. I think his concern was that apparently some concern had been raised as to whether he was discussing matters which were confidential. As he explained them to me I said I see nothing involved, and as far as I was concerned, he was free to testify.

Q. Now, as General Counsel of the Commission and as former Assistant General Counsel in charge of natural gas rate matters, are you satisfied that sufficient knowledge exists concerning what the domestic gas reserves of the U.S. is.

A. Mr. Nash, you can always get more information and more detailed information. The Commission for, well let's see, 12 years since the initiation of the Permian proceeding has relied on the data that was available to them from the AGA figures. Questions have been raised about it and I suppose there is always a desire to get more definitive figures if you can get them.

Q. Do you believe the present state of knowledge presents a reasonable basis for making important policy decisions respecting our natural gas supply?

A. I don't think I understand you.

Q. Well, maybe back in the Permian days, however little information we had, there was no need or no reason to believe, additional information was needed. We have come a long way since Permian. People take radical positions on both sides. Other people taking moderate positions in the middle. But given the state of knowledge we have, and the unanswered questions that have been raised, do you believe that sufficient knowledge related to domestic gas reserves exist to predicate major policy decisions respecting the future regulatory action?

A. That's a difficult question, I think, considering the basis on which the Commission has gone in the past, that the AGA reserve data, with the Natural Gas Reserves report, offers a reasonable basis for us.

Q. In your mind the AGA Reserve data is reliable?

A. No, I didn't say that. I see the Commission in the past has used these data only with respect to establishing the so-called new gas regs. And, unless they are way off, the impact on the ultimate rate is not that great. Now, if, as I understand the public published reports, if the Commission and Natural Gas Survey reserve figures are correct, assuming that same trend would continue with respect to new reserves found, they would be higher than under the AGA figures.

Q. I am asking you the question, because as I understand Commission policy now, they are no longer using AGA reserve figures as they used them in respect to the Permian case. They are now using the figures to show that as a national matter, there is a substantial gas shortage and they are going to optional pricing and doubling and tripling the price of gas in the optional pricing eases. *Belco* being one example, *George Mitchell* being the other.

A. What's your question.

Q. I guess I am suggesting to you that I see the Commission utilizing AGA reserve data differently today than they did in the *Permian* case. You said it provided a reasonable basis for making policy because it had such a tremendous effect on price. I am asking whether you think that holds true today.

A. In what way are they using it differently today?

Q. Well, they are saying it's a national matter. There is a gas supply shortage, therefore we have to induce more expenditures for exploration and development. That way we'll get more gas, and therefore we have to substantially raise prices. And I think, by any definition, they have substantially raised prices in the past several decisions.

A. In the *Belco* case, certainly did this. I am not. Well, I don't know on the reserve data. It is a difficult thing as I understand it. I am no geologist. There are a lot of judgmental factors that enter into how much reserves are in a particular reservoir or field. You can always hopefully improve the techniques and your data, and to the extent that that's possible, obviously it is desirable. How it can be accomplished and in sufficient time for the Commission to meet its responsibilities raises difficult questions.

Q. Let me try it this way. As General Counsel, you have ultimate responsibility for how staff tries a case. Have you considered directing your staff counsel to issue subpoenas to the companies seeking rate increases looking through the companies internal memoranda, books and records to see whether they have one set of figures for the FPC and the AGA on the one hand, and a different set of reserve figures, be they high or low or whatever, to the Board of Directors, to the management committee, the banks or circumstances like that?

A. No, sir, I haven't.

Q. All right. I would suggest, with all due respect, that that wouldn't take as long as drilling wells and having geologists make a study of 5 years as to what they would estimate reserves to be. It might serve either to say well the Commission's been right, and let's cut all this sniping out, they are right, or it might serve to say, gee, they are wrong, and if they are wrong, we certainly don't want to raise prices unnecessarily.

A. How quickly do you think we would get these data?

Q. I would seem to me that the companies before the FPC seeking a rate price, a rate hike, and if it had data in its possession that would establish validity, or lack of validity of the claim, and if it wouldn't turn it over, then standard public policy should be that it wouldn't get the rate hike.

A. The difficulty with that is the Commission has never used the reserves of one company to determine the rate. They have used, generally speaking, used nationwide reserve findings.

Q. Yeah, but if Texaco and Belco and one or two other majors are in a particular proceeding, and if you get their own internal reserve data, to see if it squares with their component of the AGA total, you have a pretty sound basis of moving.

A. You mean that if Texaco, for instance, had reported to AGA, let's say 20% less then you determine that you would adjust the nationwide figures for the same amount on the idea that Texaco was typical of the industry.

Q. Well, if you had 20% less, you're probably in the same ballpark, but if you had a 1000/1 ratio I think then you'd have a problem.

A. Yes, but I am not questioning the problem, but my question is do you adjust the nationwide figures which the Commission uses based upon whatever the situation is with respect to one or two companies?

Q. No. What you do then is you suspend the rate proceeding and issue a brand new rulemaking directed against the entire industry and find out what the story is. FPC has never done that. Do you have any relationship or established lines of cooperation with the FTC?

A. No, sir.

Q. Do you know that the FTC is conducting an investigation of the accuracy of the AGA reserves?

A. Yes, sir.

Q. Have you reviewed the testimony of Mr. Halverson?

A. No, I haven't had a chance to read any of that testimony.

Q. It is something I think the FPC ought to review, and it will speak for itself, but to stress the importance of it, let me just state in substance here indicates that while his investigation is nowhere complete, at least with respect to subpoenaed internal memoranda from three companies on the conservative side the companies show reserves of double the AGA reported reserves; that is taking the low number in an internal memorandum and taking the high number in an internal memorandum there is a discrepancy of 1000%. Nothing is inclusive; the investigation is not finished, but when given possibilities like that, it would seem appropriate of the FPC to cooperate with the FTC and try to find out the basis of the FTC conclusions and the method of the FTC investigation and maybe utilize it in an internal rate case, so the FPC can get firsthand knowledge of this.

A. It may very well be desirable.

Q. Do you believe as a legal matter the confidentiality order issued by the Power Commission precludes the Power Commission from providing data to the FTC?

A. I don't think so.

Q. Did you render any advice to the Commission as to whether they should provide any data to the FTC?

A. No, sir.

Q. Were you aware of the Trade Commission's request for some documents underlying the Natural Gas Reserve study?

A. Yes, sir.

Q. Were you aware of the Power Commission's response?

A. No, I don't think they've responded yet.

Q. I've seen a letter from Chairman Nassikas to Chairman Engman.

A. Oh, well that was I think publicized _____. Whether I've actually seen the letter or not, I doubt it. _____.

Q. You weren't involved in the ...

A. No, sir.

Q. You have indicated in a number of what I would call key legal areas, that you weren't consulted or you didn't give any advice to the Commission. Do you consider that you have a close working relationship with the Commission, or do they deal with other people on key policy matters?

A. Well, three of the present four members of the Commission are lawyers. They have legal assistance, and if they choose to make their own determination, I am not about to say they have to consult me.

Q. Do you attend Commission meetings regularly?

A. Yes, sir.

Q. Does anyone else on your staff attend with you?

A. The Deputy General Counsel is there.

Q. Who's that?

A. _____. The Assistant General Counsels who are involved in the items on the agenda. They divide the agenda up by gas items, power items, miscellaneous rules and that type of thing. Whoever is involved directly is brought in.

Q. Does anyone else attend with you on a regular basis?

A. Well, Mr. Jonrney.

Q. Apart from those you named.

A. Oh, you mean from the Office of General Counsel.

Q. Yes.

A. Not on a regular basis, no.

Q. Does Miss Jane Nix attend regularly?

A. She had been. She has not regularly recently. But she attended the meetings in order to make notes of what the Commission wanted done, with respect to items on the agenda and which final action hadn't been taken so that she would advise the Assistant General Counsel directly concerned with what her understanding was that the Commission prepared for the next agenda.

Q. Did she attend those meetings at your request?

A. Well, I think, if I remember correctly, she attended when Mr. Gooch was there, and I never changed the procedure.

Q. Did Miss Nix attend any of the meetings in which documents destruction was discussed?

A. I don't think so.

Q. Or, R-405 was discussed?

A. No, not to my recollection.

Q. Do you know if anyone attended meetings at which R-405 or document destruction was discussed who took notes?

A. I didn't see anybody taking notes at any in which I participated.

Q. To your knowledge, does Miss Nix maintain a frequent dialogue with Mr. Gooch, since Mr. Gooch left?

A. I have no knowledge of any conversations she might have with Mr. Gooch.

Q. While a rate case is going on, does anyone from the Commission communicate with FPC staff as to how its being conducted?

A. Not to my knowledge.

Q. Who is John Lotis?

A. He is the Assistant General Counsel in charge of Gas Pipeline Rates and Collective Rates.

Q. Do you know whether he has continual dialogue with any member of the Commission with legal assistance during on-going rate cases?

A. I have no knowledge of it.

Q. Have you had any discussion with the Chairman or any member of the Commission respecting your impending retirement or departure from the Commission.

A. No, sir. I checked with the Office of Personnel before the June 30 date as to what amount of retirement I might get, but I have never discussed it with anyone other than them.

Q. Have you had any indication, direct or indirect, from the Chairman or any member of the Commission concerning their desire for you to retire or depart in the immediate future.

A. No, I haven't. I'm a little surprised at the question. I, uh—

Q. It is just a matter of routine. It is not intended to mean anything?

A. Of course, you understand. I'm Schedule C job and they could tell me today we don't want you and I'd go.

Q. Well, that's why I asked, because in light of the relationship and things going on, it's an area we have to cover. No other implications. We'll take a five minute recess.

* * *

Q. Coming back to Miss Jane Nix for a moment. Is it correct that Chairman Nassikas advised you she should continue to attend Commission meetings?

A. That's correct.

Q. Did you receive that advice because you indicated that you no longer wanted her to go to them?

A. Well, it wasn't quite that. What happened was I told the Chairman that I wanted to make one of the attorneys an assistant to the General Counsel who would devote himself almost exclusively to agenda items and on my behalf go over these and make such suggestions as he had for orders, opinions and what not and I think she felt that she was kind of being shut out because he went to all Commission meetings. I may have said that she didn't need to go, she didn't want to go, but I didn't say she could not. But I did get instructions from the Chairman, as you _____, Commission meetings.

Q. Is that because—why did he have this fond feeling for Miss Nix?

A. I can't answer that but I assume that she went to him and indicated she was being kind of shunted aside.

Q. What is her grade level?

A. I think she was just promoted to a GS-14.

Q. Was she hired by Mr. Gooch?

A. Yes, I'm sure she was.

Q. Did she come from his law firm? Do you know where she came from?

A. Oh, no, I think from what she's told me she was with Internal Revenue. Now, whether there was a gap in employment, I really don't know. I never looked at her personnel file.

Q. Did you authorize the grade 14?

A. I did.

Q. Did you do so in the instruction of the Chairman?

A. I think the Executive Director, if I remember correctly.

Q. Why did you have to get instructions to approve the 14, from the Executive Director?

A. Well, I think, I'm guessing, I think she felt it might not get through when her year was up. And she probably went to somebody higher and so they got the papers.

Q. Does that indicate you might not have given her a grade 14 when her year was up?

A. I would have thought about it.

Q. Did you ever convey to her directly that you were going to have to think about it?

A. No, she called to my attention that her year was about up. I've forgotten what I said. I said well I'd look into it or something. I've forgotten.

Q. The next thing that happened, you were told by Mr. Maxson to give it to her?

A. Correct.

Q. Have you ever authorized and have any of your employees ever received grade raises during the pendency of an adjudicatory case before the Commission?

A. It is entirely possible?

Q. As chief legal officer of the Commission, do you see any conflict of interest if the Commission grants a pay raise to an employee while he is participating in a case which the Commission has to judge in his adjudicative capacity?

A. No, frankly never gave that any thought. If I think and the Assistant General Counsel, who has supervision over the employees, thinks they are entitled to a raise, I have never even gone into the question of whether they are in hearing at the time. As a matter of fact if you applied that rule back a few years ago, you would hold some of these people up who did very good work for two, three or four years.

Q. Well, as general counsel, I take it then you don't see any conflict problem with the Commission giving raises to its employees while it is sitting in judgment on a case before it that an employee participated in.

A. No, but I am not even sure—I don't think the Commission passes on these raises. I think the only Commission action would be with respect to super-grade. I believe that's right.

Q. Do you think if a super-grade were involved or if the Commission had to approve something or not approve it that it would be violative of its adjudicatory responsibility if it were judging a case?

A. I don't see that. I don't see that there is any violation.

Q. I'm not suggesting there is. I just wanted your view. Were you called upon to render any advice to the Commission with respect to promotions of any employees in the Office of Economics?

A. Oh, no.

Q. Were you aware of any Commission decision respecting granting or denying a raise to OEC people during the pendency of a proceeding?

A. I know nothing about that.

Q. Were you consulted about either the legality or the practicality or wisdom of restructuring the Office of Economics?

A. No.

Q. About abolishing it?

A. Never.

Q. Making the top grades in that office political. Schedule C.

A. No.

Q. Do you know whether that was discussed?

A. It seems to me that at one time I heard Mr. Maxson say that some consideration was given to that and I think he said the Chairman told him to drop it. I believe that it—

Q. In the Belco case. Was one of the trial team from your office a law student?

A. Yes, I'm sure that he was.

Q. Was he a summer intern type?

A. No, he was a, as I recall, a part-time year-round employee. But, in that connection, I told Mr. Purdue who was his supervisor on a couple of occasions, while I had no objections to his participating in the case, I wanted a lawyer as the chief counsel on these cases.

Q. Who would have the power to assign the chief counsel say to the Beico case, to go out of town and argue another case before a court on a day when cross-examination had to take place of proponents of the rate increase in behalf of the applicants?

A. Well, I don't know what you are referring to but I would assume that would be arranged between the Solicitor of the Commission and the Assistant General Counsel and I assume the Assistant General Counsel would not authorize it unless he has somebody there who was qualified to conduct the cross-examination.

Q. Let me get more specific. Do you know whether on a day cross-examination was supposed to take place of a witness on behalf of the applicant that staff counsel was directed to argue a case in the district court someplace and the cross-examination had to take place solely by this law student?

A. No, sir, I never heard of that.

Q. If you were aware of it, would you have approved it?

A. No, I don't think I would.

Q. Do you know whether on that same day your technical advisor on the Bureau of Natural Gas also did not show up?

A. No, sir, I never heard of that.

Q. Who was the staff counsel and chief counsel in that case. Do you remember? Was it Michael Manning?

A. Yes, that's right. Oh, I suspect that in that case Mr. Manning had written a number of briefs for us in the circuit court and I—if that's who you are referring to—I suspect he had appeared to argue a case, but I didn't know that a law clerk was put in to cross examine any witnesses.

Q. We have had comments from all of our witnesses so far one way or another about the Office of Economics. Everyone seems to have an opinion about the Office of Economics. We might as well finish this interview by covering that subject since you have been around some 18 years and reached a pretty high position in the Commission.

Q. In your view, is the Office of Economics butting into everybody's affairs and raising a lot or unjustified problems? Or, are they performing a function in a responsible way?

A. I think that the OE has the function and properly should raise questions which they think should be explored in a hearing. I do not think once the Commission has issued a decision that they are free to continue to attempt to assert the same position. If the Commission should be reversed its a different proposition, but I think we are bound by what the majority of the Commission does or says and we should abide by it until some court tells us its wrong.

Q. Do you think that they are correct in trying to get information and data from other divisions and making economic analyses of the data they get?

A. I see nothing wrong with that so long as they abide by whatever appropriate rules governing confidentiality—things of that nature.

Q. What do you mean by the Office should accept the decisions of the Commission unless it is reversed? Do you mean that, for example, if the Commission espouses deregulation, once that policy decision is made the Office should not render opinions to the contrary?

A. No, I am talking about hearings and the test of cases that I think that if the OE or the BNG or anybody else presents a position and evidence to back it up and the Commission says no, then I don't think those same things should be presented in subsequent cases at the very same time.

Q. Oh, I see, you mean if they oppose a policy in an adjudicatory case and they lose, they shouldn't present the same type of approach in the next case.

A. That's right.

Q. Isn't staff function supposed to be to take a position in a case, independent of what the adjudicatory policy of the Commission might be?

A. When it has not previously been decided by the Commission, I think the staff of the Commission is in no different situation than it would be if you had a court decision. The Commission has decided certain issues and if you have a comparable case of the same general character I think you should abide by what the majority of the Commission said.

Q. If you were counsel for a plaintiff in a court case and plaintiff wanted to raise the same matter again, notwithstanding the rules against him, would you do that and try to get that precedent overruled?

A. I think you are in a different position if you are on the staff of a regulatory commission than you would be representing a client who wants to present a posi-

tion and attempt to get a court to reverse itself. Now applying this directly to the Belco situation, the majority of the Commission having decided as they did in the Belco case, I do not think the staff should raise the same questions again.

Q. Is that what you had in mind as a concrete example?

A. Yes, sir.

Q. Does that imply that there's another case going on that they are raising the same points?

A. There are a number of cases going on.

Q. And the Office of Economics is raising the same points again?

A. To my mind, it is the type of thing which the majority of the Commission turned down in the Belco case.

Q. What type—competitive and market structural analysis?

A. No, No, about project cost.

Q. You mean whether the context of optional pricing is relevant to get into cost?

A. No, project cost.

Q. Project cost. And the Commission said no in the Belco case?

A. And I so interpret it. The Chairman in dissent, indicated he wanted that. Thought they should have it.

Q. And you think the Office of Economics, should, therefore, not endeavor to get into project cost and other optional pricing data?

A. I do.

Q. What about the OE market structure analysis? The Commission found the market to be competitive. Did they present anymore economic testimony about market structure, and competition?

A. I don't think so. The Belco case undoubtedly will go to court. If the court reverses it, these other items will fall with it. These other cases, no question about it.

Q. Well, what should the OE do now?

A. I think until a court rules on it they should abide by the decision of the Commission. As long as I've been with the Commission, it's always been the position that if the Commission once decides an issue that the staff does not then attack it in a subsequent case and I think that is an appropriate ruling.

Q. If the staff doesn't make a record on project costs, but present an argument as to what project costs should be considered, and if the Economic staff doesn't present evidence or make a record respecting competition and market structure, in subsequent optional pricing cases, upon what basis can a reviewing court then determine whether the Commission was right or wrong—?

A. Well, there are certainly lots of other issues and they certainly will decide it in the Belco case.

Q. Is that the only thing you had in mind when you said once the Commission makes a decision the OE should not raise the same matters?

A. Any office or bureau as far as I'm concerned. It doesn't apply just to the OE.

Q. But apart from that do you have any criticism of the OE so far as its policies and performance is concerned?

A. No. I don't think so. I'm not sure economists understand a lot of this but, they should be free to make studies they think are appropriate.

Q. Thank you very much. I have no other questions. Do you have anything you would like to add to the record—any statement or comment you would like to make? If you do, please feel free to do so.

A. I don't think so. Thank you.

Q. For the record, the time is approximately 11:35 a.m. and Mr. Forquer because this is a preliminary subcommittee investigation and because the identity of all interviewees is not yet fully determined, and because the subcommittee has made no determination with respect to the release and manner of use of the substance of the interviews, you are requested not to discuss the substance of this interview with anyone other than your own personal attorney.

A. Thank you.

Q. Thank you, sir.

SUBCOMMITTEE STAFF INTERVIEW WITH TOM JOYCE, FPC

NASH. Is that the full extent of the conversation with Mr. Mangen respecting your appearance here?

JOYCE. Yes. To the best of my knowledge, yes.

NASH. Did you discuss at all with Mr. Mangen the substance of the testimony he might give or you might give here?

JOYCE. No.

NASH. Did you discuss with Mr. Mangen at any time the events leading up to the destruction or the events that transpired subsequent to the destruction?

JOYCE. Well, alleged destruction.

NASH. Attempted destruction.

JOYCE. The words you choose to use are yours. I discussed with Mr. Mangen the events which transpired and what the situation was at the time that it was brought to my attention—yes.

NASH. When did you have this conversation with Mr. Mangen?

JOYCE. On . . . Well, again, the chronology of events of course is the subject of Mr. Maxson's investigation that is being conducted that Senator Hart has been informed of. I understand and I am sure that he will get a complete report on the chronology of events, but on the day that this occurred—and I can't remember the specific date, I asked Mr. Mangen for assistance in pulling together certain information in response to inquiry by Senator Hart.

NASH. Which date?

JOYCE. May . . . Well, the date that the letter was received from Senator Hart, I believe, was May 21.

NASH. Yes. We still understand from other witnesses the letter was dated May 18.

JOYCE. And I do have a copy of the letter, and the date it was received, yes.

NASH. You called Mr. Mangen for what purpose again?

JOYCE. To prepare information in response to that inquiry. To gather data that Senator Hart had requested be submitted?

NASH. How did you get Senator Hart's letter?

JOYCE. I was called to the Chairman's office to review what preparation would be made to respond to that letter.

NASH. What did the Chairman inform you?

JOYCE. That I should undertake to prepare certain information. The information that in response to the questions in the letter. Those that could be appropriately responded to and those that—how we would—the sources of information from which we would derive the data to be presented.

NASH. Who else was present when you had this discussion with the Chairman?

JOYCE. To the best of my knowledge, Mr. Diener, assistant to the Chairman.

NASH. Who decided what could be appropriately responded to and what could not be appropriately responded to?

JOYCE. There was no decision at that time as to that.

NASH. What did the Chairman indicate you prepare and what did the Chairman indicate you not prepare?

JOYCE. I have the—this was the—yes, May 21, and this was the various material at that time the date was set for June 7.

NASH. As I understand it, May 21 was the date upon which you met with the Chairman. Now, what did you indicate took place on June 7?

JOYCE. Oh, that was the original date that was set. I just noticed here. That was the original date set for the hearings.

NASH. I see. I see. Did the Chairman indicate you were to comply fully with Senator Hart's request?

JOYCE. The Chairman indicated that I was to prepare certain information.

NASH. What information did the Chairman want you to gather together?

JOYCE. He wanted me to gather an assessment of the concentration without a specified basis as to the numbers of companies involved, and of course you now have in hand the 4, 8 and 20 company assessments. The summary of actions to increase gas supply—this is a long list we keep for Congressional correspondence. I would be happy to supply that for you if it would be of any significance. He sought information on the emergency purchases that had been made by pipeline companies under our outstanding orders, 431, and other orders. And the price levels over the past six months. If that were possible to do. At this point in time some of these things were ideas that we wanted to try to get information for but we just didn't know where the information would be available. For purchases under order 431 which was an order of the Commission for emergency purchases, how much volume was purchased, the price paid, volumes delivered—that sort of thing—and we keep a record. What the pipelines paid to producers year by year using the same cut off date we had used before and in previous testimony and using and comparing it with the—well, I am extrapolating—or interpolating from the comments and notes that I took at the time—but what it involved was to

determine the change in cost of wholesale price index let's say as compared to the price of gas, to show a comparable figure. And we have introduced this in testimony. The cost of liquified natural gas, refined gas, whole gas, this is cost that again is in our records and filed by parties in various applications. The area rate structure which is embodied on a map that we have which shows the price in areas and the areas of each of the—the prices that are charged for flowing new gas in these areas—this is just by way of background information. The optional pricing decisions, the information on those. At that time the Commission had issued one _____ decision and at that time the Commission had not yet issued the *Belco* decision, so it was a question of whether or not the Commission (as to whether or not the Commission decision) would be included on that. We also were going to try to develop information on the results obtained—it was part of our advanced payments program where we set up with the, as part of our regulation, a program whereby advances are made for development to develop new sources of gas supply. The results we have been able to obtain with our limited term certificates and the emergency purchases and other actions, the results of other actions, again a catch-all phrase, to see what response we had gotten to the action to increase additional supplies.

NASH. What were your instructions, or what indication did you have, respecting the method of compliance with the request for the 79 questionnaires as filled out by the companies?

JOYCE. I was not given instructions at that time. As with the compliance I, on my own initiative, undertook to prepare a breakdown from the uncommitted reserve data of all of the companies—all 79 companies by area-by-area. But, of course, the disposition of the information was the decision of the Commission. That is not a decision that I can make except under the terms of the Commission order, as I did in the earlier letter to Senator Hart. And it is always subject to overruling by the Commission.

NASH. On May 21 you undertook to do what; again, with respect to the 79 questionnaires?

JOYCE. To rank each of the 79 companies that responded by geographical area of the companies, area, uncommitted reserves. For each one of these. This would then have been possible to composite these in any groupings.

NASH. I see, you mean . . . You commenced to respond to that request on the 21st even though you didn't have any orders in the event the Commission would want to provide the data eventually?

JOYCE. I wanted to have that data prepared in a form for whatever use the Commission chose to make of it.

NASH. But you did not indicate to the Chairman that you were going to prepare this material?

JOYCE. Yes, I believe I did.

NASH. You indicated to the Chairman at the 24 . . .

JOYCE. That I was going to prepare that material for our information.

NASH. And what did the Chairman indicate?

JOYCE. He told me . . . Well, again, I won't say what he told me, but I was not directed to do otherwise.

NASH. I would like to know for the record, what he told you, to the best of your recollection.

JOYCE. To the best of my recollection, he told me to prepare the information so that we would have it available in that form.

NASH. How did you go about complying with the request for all other documents bearing on use and disposition of the 79 questionnaires? Did you receive any instructions with respect to that or did you do anything respecting that on your own?

JOYCE. No, that was my own structuring of how this would be set up, and how it would be compiled.

NASH. How far along were you in compiling this work table at the conclusion of business on the 21st?

JOYCE. I was not.

NASH. Did you commence compiling on the 21st?

JOYCE. I attempted to. At that time I found that the documents were not available for compiling.

NASH. After you left the Commission—after you left Chairman Nassikas and after you had your understanding as to what you would do, what did you then do?

JOYCE. I then went to Mr. Mangen and told him what I wanted to do—that I wanted to compile this information in this way. He said that information

was not available and again don't quote me on the words I do not know his precise words, perhaps he remembers better than I do but I gained the impression from him that they had been turned over to Mr. Vivian.

NASH. How did you gain the impression?

JOYCE. Well, as I say, from the language that was used. I just can't quote the correct words.

NASH. I wouldn't want the full quote if you can't remember every word used, but tell me the substance of what you remember Mr. Mangen telling you.

JOYCE. That he had given them to Mr. Vivian to dispose of.

NASH. When did Mr. Mangen tell you this?

JOYCE. Within a few minutes after I left the Chairman's office to undertake this task of preparing this information.

NASH. And what did you do upon learning of Mr. Mangen's statement that he had given them to Mr. Vivian to be disposed of?

JOYCE. I believe my first response was how is this permissible—how can we do this?

NASH. And Mr. Mangen told you . . . ?

JOYCE. That's what the order says. And please do not take that as a direct quote but that is my best recollection of . . .

NASH. What happened then?

JOYCE. I then obtained a copy of the order, read the pertinent parts of the order and did not find that language in the order.

NASH. And what did you do then?

JOYCE. Then I went to Mr. Vivian to see where the information was.

NASH. And was this all May 21st?

JOYCE. Yes.

NASH. And what did Mr. Vivian tell you?

JOYCE. He told me that he had the information as far as he knew, in a drawer in his locked cabinet and perhaps some of it in another bag that was one of these security type bag that was set for the type of thing that is used for ultimate destruction.

NASH. After you read the order and before you went to Mr. Vivian, did you have any additional communication with Mr. Mangen?

JOYCE. Yes.

NASH. When and what took place?

JOYCE. I asked him why, in general terms without quoting, I asked him why this information was treated in this way and the substance of his response to the best of my recollection was that this is the way it had been done before.

NASH. Did you go to Mr. Vivian or call Mr. Vivian with or without Mr. Mangen's presence?

JOYCE. Without Mr. Mangen's presence to the best of my recollection.

NASH. Did you tell Mr. Mangen that you were going to call or visit Mr. Vivian?

JOYCE. I can't recall.

NASH. About what time did you arrive in Mr. Vivian's office?

JOYCE. Oh, now you have me on chronology of time again and I just can't remember that precisely, but again I am sure the chronology of events will be established in the, Mr. Maxson's investigation.

BANGERT. Mr. Joyee, as you know, the FPC is conducting their investigation surrounding the circumstances with respect to the alleged attempted destruction of documents. This subcommittee is likewise conducting their own independent investigation and it would be of extreme assistance to us if you can to the best of your recollection try to figure out the dates and time.

JOYCE. Yes—if you will allow me the latitude of recognizing that time lapses and I just don't really, I just can't keep that time sequence in mind . . .

BANGERT. Yes, and we do understand.—

JOYCE. I can place it in this way—I left my office which was two or three or four floors above Mr. Vivian's office directly to his office and this must have been about 11:00 something like that.

NASH. A.m. or p.m.?

JOYCE. A.m. This was all a continuing sequence of events—the review of the order, the basis on which this decision was made, the immediate check with Mr. Vivian as to the precise status of those documents.

NASH. Did anyone see you in Mr. Vivian's office at that time?

JOYCE. Huh, I believe probably, well, I don't know who it might have been. There might have been a secretary there.

NASH. And after Mr. Vivian informed you that all documents may have been ripped in some fashion—

JOYCE. Let me back up. As I reconstruct the events in my mind because I really have not attempted to do this, and make sure that the record is straight on this score, that I believe before I went to Mr. Vivian's office after I had determined from Mr. Mangen that the order, as it appeared to me at that time, did not allow this treatment of these documents. I then informed the Chairman immediately, at which time he, from my understanding, immediately instituted an investigation of the circumstance surrounding this. Then, I went to Mr. Vivian's office to determine the exact status of that. Now that's my best recollection of the sequence of events and I, uh—

NASH. When you were with the chairman and informed him of such act, before you went to Vivian, relate for the record the circumstances in which the Chairman then immediately commenced the investigation. How did the investigation immediately commence?

JOYCE. Well, to the best of my knowledge . . . Well, of course, the first step was—how could this happen. And I had no response for that at that time. I, and again, Mr. Maxson may have a better recollection of this than I do, but I believe Mr. Maxson, he might have contacted Mr. Maxson at that time, but in any event—

NASH. While you were present, was Mr. Maxson present?

JOYCE. Not to my knowledge.

NASH. Did you hear the Chairman communicate with Mr. Maxson?

JOYCE. I can't recall that I did.

NASH. How do you know the Chairman commenced immediately an investigation?

JOYCE. Because he told me to go find out immediate what the situation was.

NASH. You construe that as the commencement of an immediate investigation?

JOYCE. Yes.

NASH. Is that the sole basis for your statement that the Chairman commenced an immediate investigation?

JOYCE. Insofar as I was concerned at that time.

NASH. Now, when you got back to Mr. Vivian and indeed prior to your communicating with Mr. Vivian, did you inform Mr. Mangen that you were going to communicate with Mr. Vivian?

JOYCE. I do not believe so.

NASH. When you were with Mr. Vivian and he indicated to you that while the documents were ripped up or he had at least some of them, did you then take possession of the documents?

JOYCE. I then assisted Mr. Vivian in sorting out those portions of the documents which were apparent on the surface that would be of part of that information.

NASH. And this was approximately 11:00 a.m., the 21st day of May.

JOYCE. I really can't attest at this time whether it was 12:00 or 1:00 or what time we had arrived at then.

NASH. Was it before lunch?

JOYCE. I had not had any lunch.

NASH. It was right after you came down from the Chairman's office. Is that right? You didn't tarry or do anything else did you?

JOYCE. I didn't tarry. I might have done something else, but it was a direct movement to determine the precise status of those documents.

NASH. And you assisted Mr. Vivian, I take it, in pulling out of drawers, or burn bags, or wherever, the documents you were interested in?

JOYCE. The ones which it appeared would be a part of those filings.

NASH. And approximately how long did that take? Do you recall?

JOYCE. I would suppose upwards of an hour, maybe two hours.

NASH. And did you and Mr. Vivian finish the task that day?

JOYCE. I did not participate after that time. I do not know whether all of the task was finished at that time.

NASH. Well, when you and Mr. Vivian commenced pulling the documents together, did you leave Mr. Vivian's office without taking possession of all of the documents?

JOYCE. Yes.

NASH. So to the best of your recollection on May 21 you ascertained that the documents still existed, albeit in altered form—altered I mean in somewhat ripped form and you took possession of the documents from Mr. Vivian.

JOYCE. I did not know on that day. That could not be established till they had been reconstituted to determine whether or not they all existed and this took a period of some three or four days before this was done.

NASH. On May 21st you took possession of what you believed to be all, or what you hoped to be all of the documents and did you take them to your office.

JOYCE. No, what—I believed that all of those that had been delivered to Mr. Vivian were as far as we had ascertained at that time without a secondary check of going back and checking everything again to make sure we didn't miss something.

NASH. Did you take possession of the documents that Mr. Vivian had—

JOYCE. No, I did not.

NASH. —on May 21st and place them in your safe?

JOYCE. No, I did not.

NASH. What did—strike that. Is it or is it not your testimony that you took possession of the documents from Mr. Vivian on May 21 after you found out they still existed?

JOYCE. I believe not.

NASH. What did you do on May 21st after you found out the documents existed in Mr. Vivian's office?

JOYCE. I assisted Mr. Vivian in sorting out the papers.

NASH. And what happened after the papers were sorted out?

JOYCE. I do not know.

NASH. Did you take possession of them from Mr. Vivian?

JOYCE. I did not.

NASH. Did you leave possession in the hands of Mr. Vivian?

JOYCE. Yes, to the best of my knowledge.

NASH. Did anyone else enter into Mr. Vivian's office while you and Mr. Vivian were present with respect to the documents that were ripped?

JOYCE. Not that I can recall.

NASH. Why didn't you take possession of the documents after you ascertained that they still existed. Why did you leave them with the office that had been charged with destroying them?

JOYCE. We did not know at that time whether we had all of them and we needed to check further to determine whether we had gotten all the pieces back again.

NASH. What did you do after you left Mr. Vivian's office?

JOYCE. I then either after leaving or prior to leaving Mr. Vivian's office I informed the Chairman that I had determined that the documents were in a form which I believed was reconstitutable.

NASH. And what did the Chairman tell you?

JOYCE. To, again the best of my knowledge, to reconstitute this information.

NASH. Did you then go back to Mr. Vivian and take possession of the documents after leaving the Chairman on the 21st?

JOYCE. I didn't go to the Chairman . . .

NASH. Ah, this was done by telephone?

JOYCE. I believe that that was done by telephone.

NASH. After your telephonic conversation with the Chairman, did you then take possession of the documents from Mr. Vivian on May 21st?

JOYCE. No.

NASH. What did you do?

JOYCE. I then went back to my office. Strike that. I then contacted Mr. Mangen and I do not know the precise location to make arrangements to have people available to sort these out and to reconstitute the documents.

NASH. Did you tell Mr. Mangen that the verified documents still existed? At that time did Mr. Mangen know of his own accord that the documents still existed?

JOYCE. I don't know. I don't know whether I informed him or whether he already knew.

NASH. When you went to Mr. Vivian the first time, were you informed by Mr. Vivian whether you were the first person seeking such data on that date?

JOYCE. No.

NASH. Were you informed whether you were the second person?

JOYCE. No, I don't believe so.

NASH. Were you informed or do you know whether Mr. Mangen arrived in Mr. Vivian's office before or after you did on May 21st?

JOYCE. I do not know.

NASH. Do you know whether Mr. Mangen went to Mr. Vivian's office on May 21st?

JOYCE. No.

NASH. What did you tell Mr. Mangen when you called?

JOYCE. Called him when?

NASH. May 21st, after your call to the Chairman that the documents existed and you believed that they could be put back together.

JOYCE. Oh, I didn't call him as I recall the sequence of events, I told him that we had these which were in a 4 square form which I wanted to be reconstituted and to see if all of the documents were there.

NASH. And what did Mr. Mangen tell you?

JOYCE. I don't recall except that I expect that he said he would get right on it.

NASH. Did you go to Mr. Vivian or call Mr. Vivian the second time on May 21st?

JOYCE. I don't know, I may have.

NASH. For what purpose.

JOYCE. To further assist in the separation of the papers.

NASH. Did Mr. Mangen take possession of the papers on May 21st after your communication to him?

JOYCE. He may have, I do not know.

NASH. What did you do after your communication with Mr. Mangen on May 21st?

JOYCE. I asked him first of all to make sure he could reconstitute all of the sheets, the summary sheets, this was the first order to make sure that we had all of that information so that indeed all of the information was there. Then to the second order of business would be to undertake the more time consuming task of reconstituting all of the forms in each one of these. I know you have seen the form, it has six or 8 sheets and you have to fit them all together and it is a time consuming task and we set up facilities in my conference room for the people to use this to as a point for reconstitution of this information.

NASH. What did you do after this on May 21st? Did you do anything else with respect to the documents? Were they discussed with anybody else? Anything pertaining to the documents?

JOYCE. If my memory serves correctly, I believe I did inform the Chairman's office that we were reconstituting this information.

NASH. Did the reconstitution happen to commence on May 21st?

JOYCE. Yes.

NASH. In your conference room?

JOYCE. Uh, the worksheets of May 21st were commenced in Mr. Mangen's office as I recall and we may have, indeed, even set up the procedure in my conference room on that day. If not, it was the next day. I just don't remember exactly which day.

NASH. Was possession taken of the documents from Mr. Vivian on May 21st by one or more persons from your bureau?

JOYCE. To my knowledge they would be taken by Mr. Mangen who was the investigating officer.

NASH. When he brought the documents back on May 21st did he place them in his office, in your office, conference room, safe or where did he deposit them on May 21st after taking possession from Mr. Vivian?

JOYCE. He placed them in his office first and then in my conference room.

NASH. In your conference room on May 21st, do you recall?

JOYCE. Well, as I say, it might have been May 21st or it may have been the 22nd. I just don't remember.

NASH. You are sure now that he had possession of the documents on May 21st?

JOYCE. I am sure he had possession of a major portion of the documents. I cannot attest at that date we had recovered all of the pieces from the material.

NASH. Is your reservation based upon the fact that you did not then personally inspect everything purporting to be the documents?

JOYCE. Well, the only avenue of inspection would be to see if a mass of paper what I saw were the sheets with the compiled information on them and to my knowledge those were essentially completed on the 21st but the underlying documents, the six or eight pages were not completed at that time.

NASH. But you saw the mass of the uncompleted pages of underlying documents in Mr. Mangen's office on the 21st, is that right?

JOYCE. No, I cannot attest to that. I saw the worksheets.

NASH. You did not see on May 21st in Mr. Mangen's office then the underlying documents.

JOYCE. I cannot be certain that I did.

NASH. Do you know whether you saw those underlying documents on May 21 anywhere other than Mr. Mangen's office?

JOYCE. No.

NASH. Did you go back to Mr. Vivian's office on May 22 or May 23?

JOYCE. I may have I can't recall. I have a recollection of going back to recheck that there weren't some other pieces of paper that might have been left somewhere and I just cannot really remember whether that was the 21st or the succeeding days when that might have been.

NASH. When you went back was there anyone there besides Mr. Vivian?

JOYCE. Again, not to my knowledge, no.

NASH. Not Mr. Mangen not Mr. Maxson. Is that right?

JOYCE. No.

NASH. And when you went back did you find any additional documents that belonged with the set you had attempted to reconstitute?

JOYCE. No.

NASH. So, to the best of your knowledge then Mr. Mangen successfully took back from Mr. Vivian all of the underlying data which you were attempting to reconstitute?

JOYCE. To the best of my knowledge, yes.

NASH. On May 21 do you know whether Mr. Maxson appeared in Mr. Vivian's office in your presence?

JOYCE. No, I do not know.

NASH. To the best of your recollection, was Mr. Maxson present when you were present?

JOYCE. To the best of my recollection, he was not.

NASH. Was Mr. Mangen present when you were present?

JOYCE. To the best of my recollection, no.

NASH. Were either of those gentlemen present on May 22 or May 23 in Mr. Vivian's office in your presence?

JOYCE. To the best of my recollection, no.

NASH. What took place on May 22?

JOYCE. We then set up the procedure and assigned people to sort out and reassemble the information and this was carried out as I say in my conference room.

NASH. Who reassembled them? How many days did it take?

JOYCE. Well, it took, again, I would have to cast back and perhaps other people will remember better than I but I think it was probably was three days maybe four days.

NASH. Who was responsible for reconstituting the data?

JOYCE. Mr. Mangen.

NASH. Mr. Mangen alone?

JOYCE. He was responsible. A group of people from the staff whose names I don't have but they can be obtained.

NASH. Are you absolutely certain that the data reconstruction was commenced in your conference room either late in the day May 21 or no later than May 22?

JOYCE. No, I cannot be that precise because of the—it may have been—the necessity of sorting out material—it may have been a day later I just cannot really be that precise.

NASH. Are you certain that the sorting out process commenced no later than May 22?

JOYCE. To my best information, the sorting out process began May 21st.

NASH. Thank you.

* * * * *

NASH. Can you recall any other events that transpired on May 21 relevant to the documents in question that you have not spoken about before? Any other persons you spoke to, any other things you spoke about, any other places you visited, any other information you have?

JOYCE. Yes, I, well, I also pointed out to Mr. Mangen that if there were any inadequacies in the information, if we didn't get all of it, we would have to then go to the companies and get it from them, get them to refile it if we were unable to reconstitute it, and there was a discussion with the Chairman and the commissioners as to the disposition of this matter and this, of course, would then . . . this then was carried on as a part of the investigation of reconstituting the information and getting it all put together.

NASH. When you say you had a discussion with the Chairman and the commissioners, I take it you are referring to the 2 p.m. Commission meeting on May

21 with Chairman Nassikas, two commissioners, Mr. Maxson and Mr. Forquer present?

JOYCE. I can't remember that all of those were there but I don't believe there was anybody besides those there.

NASH. And what was the substance of the conversations that took place at that meeting?

JOYCE. As to . . .

NASH. As to document destruction and reconstitution and Senator Hart and investigations.

JOYCE. Well, that the information should be reconstituted as far as I was concerned should be reconstituted if that was possible and if not that the information not reconstitutable would be obtained from the private companies.

NASH. Did the Commission indicate concern that the documents were intended to be incinerated?

JOYCE. Yes.

NASH. Did they indicate any knowledge that these events had taken place prior to your revealing such information to them?

NASH. At this meeting, were you able to assure them, did you assure them that

JOYCE. No.

the documents were back in the possession of the Bureau of Natural Gas?

JOYCE. I do not believe so because I think at that point in time I had not yet ascertained whether all of the documents had all of the pieces had been obtainable, but I believe that I did indicate that this effort was underway.

NASH. Did anyone render an opinion as to the legality of the action taken at that Commission meeting?

JOYCE. So far as I can speak only for myself.

NASH. And what did you state.

JOYCE. I felt under the terms of the order that that information should have been maintained confidential as the order read and therefore should not have been destroyed.

NASH. Did you discuss with Mr. Maxson whether Mr. Maxson agreed with such interpretation?

JOYCE. I don't believe so.

NASH. Did you or Mr. Maxson at any time prior to such date discuss or did one or the other make any statement in the presence of the other respecting whether the documents which were attempted to be incinerated should be maintained, returned to companies or destroyed?

JOYCE. Not to my knowledge.

NASH. Prior to May 21 did you ever render instructions or impart information to Mr. Mangen respecting whether the documents he was custodian of should be maintained, destroyed or returned to companies?

JOYCE. No.

NASH. Did you ever explain to Mr. Mangen his responsibilities as custodian of documents prior to May 21?

JOYCE. No.

NASH. Was such responsibility ever explained to him in your presence by Mr. Maxson?

JOYCE. Not that I am aware of.

NASH. At the May 21 meeting did any discussion take place respecting which FPC official, if any, had the authority to order documents destroyed?

JOYCE. I believe the question was raised as to what the Commission's administrative procedures say but I do not know the disposition of or the response to that question.

NASH. On or prior to May 21, did you ever hear explicitly or impliedly, that no documents could be destroyed save those approved of destruction by the Chairman?

JOYCE. I don't quite know how. Would you rephrase the question?

NASH. On or prior to May 21 did you ever explicitly hear it stated or implicitly stated that FPC documents can only be destroyed upon approval by the FPC Chairman?

JOYCE. Not to my best recollection?

NASH. Did you ever hear Mr. Maxson state that on or prior to May 21?

JOYCE. No, I believe not.

NASH. Did you ever hear Mr. Mangen state that?

JOYCE. No.

NASH. Subsequent to May 21 did you ever hear it explicitly stated or implicitly stated that no documents could be destroyed except by those approved by the Chairman?

JOYCE. Yes.

NASH. When did you hear that?

JOYCE. Again, I can't recall, but I believe it was on May 21.

NASH. Who stated it?

JOYCE. To the best of my knowledge, the Chairman.

NASH. Did he state that as a retrospective rule or rather as a prospective rule?

JOYCE. It was not indicated.

NASH. Were you aware of the existence of such a rule prior to May 21st?

JOYCE. No.

NASH. As Bureau Chief, if such a rule existed, is it your responsibility to know of it.

Joyce. Yes.

NASH. Have you ascertained since May 31 whether such rule existed prior to May 21?

JOYCE. No.

NASH. Was such a rule written?

JOYCE. I do not know.

NASH. Since hearing of that rule, did you issue any instructions to the staff respecting how they should conduct themselves with respect to federal documents?

JOYCE. I have not, no.

NASH. Has anyone?

JOYCE. Our General Counsel has.

NASH. What has the General Counsel instructed the staff?

JOYCE. Is it permissible for me to indicate the General Counsel should respond to that because I am just not clear as to the nature of this intra-agency memorandum?

NASH. Well, this is not a court of law. Heresay evidence is admissible. It is an investigation wherein we are trying to get leads even it is heresay so we can track down . . .

JOYCE. I have no reticence. It is just that we have . . . I have found that we have problems with intra-agency documents that—

NASH. You were referring to a memorandum from Mr. Forquer to Mr. Maxson respecting what may be turned over to this Subcommittee.

JOYCE. This a document dealing with answers to inquiries with respect to Commission business.

NASH. As I understand it, that's dated June 14, 1973, from the General Counsel to the Executive Director, is that the document you hold in your hand?

JOYCE. That is the document I have.

NASH. And does not that document relate to confidential data received from outside companies upon the assurance of confidential treatment being accorded such data?

JOYCE. I am not sure as to the breadth of the interpretation that might be placed upon this memorandum.

NASH. If you prefer to not answer any question we will not press at this time. Let me state clearly for the record what my question is aimed at to make sure you respectfully decline to answer it with full understanding of what I'm aiming at. In fact maybe the best way to proceed would be to have the tape played back. "Let me state it succinctly—Are you aware of any instructions to staff subsequent to May 21 respecting ground rules for destruction of FPC documents"?

JOYCE. Only the hearsay statement that nothing is to be destroyed without approval by the Chairman.

NASH. Where did you get that statement from?

JOYCE. I cannot recall the source of that hearsay statement.

NASH. You're saying you have not heard the Chairman make that statement?

JOYCE. I cannot with certainty say that I have heard him make that statement.

NASH. Have you heard Mr. Maxson make that statement?

JOYCE. Again, I will have to express it in terms of my best belief, and I believe that Mr. Maxson is the person who made that statement. In my presence.

NASH. Who else was present?

JOYCE. When that statement was made?

NASH. Yes.

JOYCE. I have no knowledge.

NASH. Did Mr. Maxson make that statement to Mr. Mangen in your presence on or subsequent to May 21?

JOYCE. Not that I am aware of.

NASH. At the Commission meeting on May 21 did a discussion ensue respecting what FPC administrative procedure provided for respecting destruction of documents?

JOYCE. I believe you characterize that as a Commission meeting—I do not know under legal structure whether that is a Commission meeting but a discussion . . .

NASH. A meeting at which you were present and one or more Commissioners were present?

JOYCE. Other than the particular order pertaining to this issue I am not aware of a further discussion of the administrative procedures.

NASH. Did anyone mention that documents had been destroyed before this incident?

JOYCE. Not that I am aware of.

NASH. Were you aware that documents had been destroyed prior to this incident?

JOYCE. No.

NASH. On May 21, 1973, Mr. Joyce, you are stating you had no knowledge that documents had in the past been destroyed within the FPC?

JOYCE. No. I am not stating that. I am not aware of the actual destruction. I have since determined or as a matter of fact, I had determined at that time, that classified information that is as I understand it, passed the time period is destroyed, but I did not know it prior to that time.

NASH. On May 21 you stated that you had no knowledge that documents provided by companies to the FPC had been destroyed prior to this incident?

JOYCE. Documents or documents provided under terms of confidentiality?

NASH. Either documents or documents provided under terms of confidentiality.

JOYCE. Well, I am sure that there have been copies of material that have been disposed of for example many copies of reports that we have gotten that were extraneous copies but file copies maintained.

NASH. Let's talk now just about documents secured with the explicit or implicit understanding that confidentiality would be accorded the information. On May 21 were you aware that any such documents were in the past destroyed other than the incident now being investigated?

JOYCE. Might I defer that question until I can search my mind because it is I understand is a key question and I wouldn't want to give a wrong answer.

NASH. Sure, would you want me to wait a while until I postulate my next question, or would you want me to go into other areas and then you will let me know when you are ready to respond to this question?

JOYCE. Oh, I had . . .

NASH. Go on to other questions?

JOYCE. Yes. Now go ahead and postulate your question if you want to.

NASH. Additional questions?

JOYCE. Yes.

NASH. At the Commission meeting on May 21, what was the reaction of Chairman Nassikas to the letter from Chairman Hart that Chairman Hart was conducting hearing and that Chairman Nassikas was requested to participate?

JOYCE. Again, this is not characterized as a Commission meeting but again I would not want to attempt to assess his reaction to that all I can recount is instructions given to me and those were to begin preparation of material to respond to this inquiry.

NASH. Did Chairman Nassikas explicitly or implicitly indicate displeasure at Chairman Hart?

JOYCE. I think you will have to ask the Chairman, what his views are. Again I could not speak for him either by hearsay or otherwise.

NASH. Were you present when Chairman Nassikas presented a reaction to Chairman Hart's letter?

JOYCE. I was present when he reviewed the letter with me and the material that would be required for response to it.

NASH. Did Chairman Nassikas characterize Chairman Hart's motives?

JOYCE. Again, this is a question more properly asked of the person who would have the motives—I cannot impinge motives one way or the other, as I say I act in a responsive position to inquiries for information.

NASH. No. No. The question was do you recall whether Chairman Nassikas characterized Chairman Hart's motives. I am not asking you to divulge the characterization but just to state for the record whether Chairman Nassikas characterized the motives of Chairman Hart. And if you prefer not to answer that question please so state and I will just go on.

JOYCE. I respectfully decline to answer the question but . . .

NASH. Fine. Did Mr. Mangen tell you that certain documents might not have been destroyed before you made your first communication to Mr. Vivian?

JOYCE. Might not have been destroyed?

NASH. Yes.

JOYCE. Yes.

NASH. When did Mr. Mangen tell you that certain documents might not have been destroyed?

JOYCE. Well, no, not that they might not have been destroyed, but there were indications that some of the documents might not have been in the documents that were sent to Mr. Vivian. He never indicated to me that some of them had not been destroyed.

NASH. When did you first learn that documents were not destroyed? Was it from Mr. Mangen or from Mr. Vivian?

JOYCE. From Mr. Vivian.

NASH. What happened on May 22 with respect to you and Mr. Mangen, you and Mr. Maxson and/or you and the Commission or the Chairman vis-a-vis the attempted destruction of documents?

JOYCE. Well, we were busy setting up procedures to reconstitute the information to determine that it was all there and to reconcile all the data.

NASH. Did you commence any investigation to ascertain what the facts were surrounding the alleged destruction?

JOYCE. I did not, no.

NASH. Do you know whether Mr. Maxson did?

JOYCE. It is my understanding that he did.

NASH. You testified that on May 21 Chairman Nassikas directed commencement of an immediate investigation. You know who was charged with carrying out that investigation?

JOYCE. It was indicated in response to Senator Hart both the Bureau of Natural Gas and the Executive Director.

NASH. Has he interviewed you formally or informally?

JOYCE. I have tried to provide Mr. Maxson with technical assistance, providing information and making available to him anybody that he needs for the investigation. I have not participated directly in the development of the chronology of events or the investigation itself.

NASH. Has Mr. Maxson taken a statement from you.

JOYCE. He has not.

NASH. Has he interviewed you formally or informally?

JOYCE. No.

NASH. Has he interviewed Mr. Albares formally or informally?

JOYCE. I do not know.

NASH. Do you know when Mr. Maxson conducted the investigation?

JOYCE. No.

NASH. Can you state with certainty today that all 79 company responses exist?

JOYCE. I have been told by the investigating officer that the responses exist.

NASH. Is that Mr. Mangen?

JOYCE. Yes.

NASH. That is the sole basis for your knowledge that they exist today?

JOYCE. Yes.

NASH. Have you discussed the appearance here of other persons with anyone else?

JOYCE. Other persons? Yes.

NASH. Who?

JOYCE. Mr. Albares this afternoon at about 12:30.

NASH. What was the substance of that conversation?

JOYCE. He stuck his head in my door and said he understands that they are running behind and I am scheduled for 4:00. I said I am scheduled for 2:00.

NASH. Did you discuss the appearance here of persons who had already appeared?

JOYCE. No.

NASH. Did you discuss with Mr. Mangen his appearance?

JOYCE. Not his appearance.

NASH. What did you discuss with Mr. Mangen?

JOYCE. Mr. Mangen came back. Mr. Mangen had gotten another work assignment. And I discussed with him the work assignment.

NASH. Did you ask him anything respecting what transpired here? Did he tell you anything?

JOYCE. No. Uh, yes.

NASH. What?

JOYCE. He said five hours on the hot seat.

NASH. But he made it back I take it?

JOYCE. Yes. And was back at work.

NASH. Good. Did you discuss with Mr. Maxson the substance of his appearance here?

JOYCE. No. As I say I didn't know that he had appeared here.

NASH. Are you aware of any oral or written communications respecting the reporting by those interviewed here to anyone?

JOYCE. Concerning the appearance here?

NASH. Yes.

JOYCE. _____.

NASH. You were requested to bring with you today "all writings of any nature whatsoever, including diaries, logs and records of telephone conversations referring or relating to use and disposition of documents involved in alleged attempted destruction." Is that correct.

JOYCE. Yes. I believe in substance that is correct, of the request that was made.

NASH. Are you prepared to fully comply with such request?

JOYCE. Yes.

NASH. Would you state how you went about concluding that your compliance will be full?

JOYCE. I searched my desk, my records, everything that I could think of that would be appropriate. Of course, I had prepared a accumulation of files in preparation for the hearings and I have that material. Previous correspondence and tried to find everything I could to the best of my knowledge in the limited time available—searched all the records.

NASH. Did you discuss the manner of complying with such request with anyone else?

JOYCE. Yes.

NASH. With whom?

JOYCE. Mr. Maxson.

NASH. What was the substance of that discussion?

JOYCE. He instructed me to make sure I had all papers that could bear on the destruction of documents, the alleged destruction of documents and to comply with that request.

NASH. When did he tell you this?

JOYCE. Last evening.

NASH. In person or by telephone?

JOYCE. In person.

NASH. What time?

JOYCE. 4:30—approximately.

NASH. Did you communicate with him after receiving Mrs. Bario's call?

JOYCE. Yes.

NASH. And you were able to reach him yesterday at approximately 4:30?

JOYCE. Unless my memory fails me I was in his office at 4:30 sitting in his anteroom. It might have been later than that or earlier. I was sitting in his anteroom.

NASH. It is your statement that yesterday at approximately 4:40 you informed Mr. Maxson that you would be appearing here to be interviewed today.

JOYCE. Well I wont attest as to the time.

NASH. But it was sometime late yesterday?

JOYCE. Yes.

NASH. Did you also speak with him this morning?

JOYCE. Yes.

NASH. Do you remember asking anything about yesterday late and this morning respecting your anticipated appearance here.

JOYCE. Yes. Because the time was changed. I was scheduled for 9:00 and I was changed to 2:00.

NASH. Did Mr. Maxson place any constraints upon you respecting what could be produced here?

JOYCE. No.

NASH. Did Mr. Maxson tell you anything about the issuance of subpoenas?

JOYCE. Nope.

NASH. Did anyone place any constraints upon you respecting what documents you may supply here today?

JOYCE. Nope.

NASH. Do you believe you have a right to supply to this Subcommittee the 79 responses of the producing companies?

JOYCE. That is not my responsibility.

NASH. Did someone place you upon constraint not to produce such data?

JOYCE. The Commission order sets the basis upon which the information is gathered and that must be a Commission decision.

NASH. Can you supply worksheets done by yourself or your staff with respect to the 79 questionnaires?

JOYCE. On order of the Commission.

NASH. Are you then telling me you are not prepared to fully comply with the request to supply here today all writings of any nature whatsoever including diaries, logs and records of telephone conversations referring or relating to use and disposition of the documents involved in the alleged attempted destruction?

JOYCE. I am not saying that. I did not understand that to be the question that you asked.

NASH. Can you produce for the record all the material that you are prepared to produce in response to the request for documents?

JOYCE. This was material . . . which was prepared and sent by me in response to Senator Hart's inquiry of March 7, which I am sure you have. . . .

NASH. Thank you, we will mark this, Joyce Exhibit I.

JOYCE. I don't know how many copies of that I have.

NASH. We will be happy to Xerox it to make sure we don't go off with your only copy.

JOYCE. That is all the material that was filed in the other letter and you have an accessory copy of that. This is a copy of the letter received on May 21 from Senator Hart and with a note on it from me that says prepare a file for hearing before Senate Antitrust and Monopoly Subcommittee June 26, 1973, Hart Committee, of course that being subsequent to change and dates, is the reason for the difference in dates. Appended to that is the list of instructions that I had read off to you as to material to be gathered, and again this is the only copy that we have. I don't know what you want to do.

NASH. We'd like to mark it as Joyce Exhibit 2. We will, of course, copies be made and you will receive a copy back.

JOYCE. These are files . . . these are the letters of June 12 and June 18 that were sent to Senator Hart.

NASH. All right we will mark this Joyce Exhibit 3, namely, the June 12 and we mark the June 18 letter Exhibit 4.

JOYCE. This is a list of, an undated list, of companies which at first glance, at first examination, appeared not to be among the companies which we had documents for. Subsequent to that all of those were eliminated. I have not changed anything since the original notation. The people on the list are people who would be the appropriate contacts to seek if it proved that the information was not available.

NASH. And how did you find the information upon these five companies?

JOYCE. Well by a variety of ways. This was the first preliminary examination. Some of them were in one case, two of them were stapled together and one was fastened on the other and was not discernible when they went back and rechecked again then it was there so it was not necessary to go any further than that.

NASH. We will mark this Joyce Exhibit 5. Is that the manner in which you found the documents from all five companies?

JOYCE. Not precisely that but they were some place then. They had just been in the original survey. They were then turned up as having actually been among the list of documents. They were actually there. With the exception, of course, of the one that is noted Exxon. That was the one that was returned to Exxon. Mr. Pollen was the gentleman in the Washington office who had picked up the documents. And I called Mr. Pollen and told him to return the documents.

NASH. When did you call Mr. Pollen?

JOYCE. Either the 21st or the 22nd.

NASH. When did Mr. Pollen return the documents?

JOYCE. Mr. Pollen to the best of my knowledge, John Rebman returned the documents and I believe that the documents were returned on Tuesday of this week.

NASH. Did you have to call for the return more than once?

JOYCE. Yes.

NASH. How many times?

JOYCE. Three times, I believe.

NASH. When they were finally returned, did you have to give assurances that they'd either be returned again or destroyed?

JOYCE. I did not give such assurances.

NASH. Did anyone?

JOYCE. Not to my knowledge.

NASH. Was such assurances requested?

JOYCE. Not to my knowledge.

NASH. What assurance did you provide the company with respect to the use and disposition of the data?

JOYCE. I provided no assurance. I—the only reason that I saw—that I know Mr. Rebman was there—that I passed him in the hall as he was returning the documents and he made the comment to me in passing that he had brought the documents back.

NASH. Did you approve the return of the documents to Exxon?

JOYCE. Yes. I did not approve the return of the documents to Exxon. I was informed that they had been returned.

NASH. Prior or subsequent to the return?

JOYCE. Subsequent.

NASH. It is your statement that at no time prior to the return of documents to Exxon were you aware that documents were going to be returned to companies.

JOYCE. No.

NASH. What is your statement?

JOYCE. That we would have the information. You see we had the information, the worksheets with the data was all there. The data to provide all this and I was informed that all the data was there to provide all the necessary analysis.

NASH. Prior to the return of documents to Exxon or anyone else, were you informed that documents and data received from companies would be returned to companies?

JOYCE. No.

NASH. It is your statement here today that at no time prior to May 21 were you aware that documents and data received from companies in R-405 dockets would be returned to such companies?

JOYCE. I did not know it would be returned. I was informed after it had been returned that it was returned. That the documents filed by the companies but the information from those documents was in the possession of the FPC.

NASH. On a worksheet that was ripped up, correct?

JOYCE. Subsequently it was torn, yes.

NASH. Did the worksheet identify the company and the amount of reserves?

JOYCE. Yes.

NASH. Specifically by company?

JOYCE. Yes.

NASH. Were you aware of any other data collection made by the FPC wherein data or documents were returned to the companies prior to May 21?

JOYCE. Yes.

NASH. What were these cases in which you were aware?

JOYCE. I do not know specific cases but in many cases involving gas supply where it is necessary to have the detailed geophysical data, this is made available for the staff for examination in the presence of the company and returned to the company.

NASH. Are you aware of the practices and procedures in R-405 prior to the up-dating of R-405?

JOYCE. No.

NASH. Were you aware that company was assured that the data would be returned or destroyed?

JOYCE. No. I, sometime subsequent to May 21, was made aware of that by—

NASH. By whom?

JOYCE. By—I don't know. And, again, it is something that somebody called to my attention and I just don't know who.

NASH. Was it at a meeting on May 23 in Mr. Maxson's office?

JOYCE. Not to my knowledge.

NASH. Was it in a meeting on May 23 in Mr. Mangen's office?

JOYCE. I do not believe so.

NASH. Was it Mr. Mangen who informed you of the prior practice in R-405?

JOYCE. Mr. Mangen informed me when I asked him of the basis for this treatment of this data, that this had been prior practice.

NASH. Was that on May 23?

JOYCE. That was on May 21.

NASH. May 21 was the night he informed you that documents in R-405—

JOYCE. He did not specify R-405. He said this has been the previous practice.

NASH. Prior to Mr. Mangen's telling you that on May 21, it is your statement that you had no knowledge that documents in the past were returned or destroyed?

JOYCE. No.

NASH. You are saying you had no knowledge?

JOYCE. Yes.

No. I am sorry. Strike that. Because I have just said that I did know. I was going back beyond this previous—

NASH. I am talking about prior to May 21 with respect to data collected from companies.

JOYCE. Yes, but I did know that the documents—the underlying documents had been filed, had been returned to Humble, to Exxon.

NASH. You knew that before May 21?

JOYCE. Yes.

NASH. When did you know that?

JOYCE. Sometime several weeks previously.

NASH. How did you find out?

JOYCE. Mr. Mangen told me.

NASH. Did you approve of that action?

JOYCE. I did not approve of it but I did not countermand it at that time.

NASH. Did you try to get them back?

JOYCE. Not at that time. Because we had the information.

NASH. I take it Mr. Mangen told you about it prior to May 21 for a particular reason. What was the reason he told you that?

JOYCE. I don't recall any particular reason except that the people had been calling him for the return of the information and he said he had returned them.

NASH. Did he tell you that several companies had called for the return of the information?

JOYCE. No.

NASH. How many companies did he tell you had called?

JOYCE. To my knowledge—Exxon.

NASH. Did he tell you he had returned any others?

JOYCE. —.

NASH. Would this be sometime in April?

JOYCE. May 21—I don't recall, I just don't recall when he said—

NASH. The Commission order said the documents shall be maintained in a confidential fashion. Is that correct?

JOYCE. The Commission order says the information shall be maintained.

NASH. Well when you found out that such order was violated by Mr. Mangen did you take any actions to discipline Mr. Mangen? When you found out he, in fact, returned it rather than maintained it?

JOYCE. I did not consider that a violation because we had the information.

NASH. At the time Mr. Mangen informed you that he had returned it to Humble did you ask him what he was doing with respect to the other data received?

JOYCE. No.

NASH. Did he at that time indicate the other data would be either returned as well or destroyed?

JOYCE. No.

NASH. Did he at any time prior to May 21 indicate to you that the data would be destroyed?

JOYCE. No.

NASH. What difference do you see between destroying the data and returning it to the company?

JOYCE. That we keep the record of the information.

NASH. If worksheets remained in tact, do you see any difference between destroying the underlying data? In contrast with returning it to the company?

JOYCE. Yes.

NASH. What's the difference that you see?

JOYCE. That you can get the data back.

I NASH. Did you have any other documents produced pursuant to the request? I noticed all the papers in your hand.

JOYCE. This is a document which has some notes taken in regard to information to be gathered up that would be used and also some thoughts as to what future action might be taken.

NASH. This will be Joyce Exhibit 6. It is both sides of a yellow sheet of paper, pencil written, undated. Is this your handwriting Mr. Joyce?

JOYCE. Yes it is.

NASH. Approximately when was this written down?

JOYCE. Sometime late May.

NASH. Why did you jot these notes down?

JOYCE. They were reminders to me of material to get.

NASH. For what purpose?

JOYCE. Oh, various things, I would have to look at them to remember just which one is which. Some of them were documents that I didn't have and some that I should have in preparation of testimony.

NASH. What did you need administrative procedures concerning destruction of documents?

JOYCE. That was when the question was raised.

NASH. Raised by whom?

JOYCE. By somebody.

NASH. What were you going to do once you found out the administrative procedures?

JOYCE. It was not my responsibility to do that.

NASH. Are you saying you just took this note that someone else asked someone else about it?

JOYCE. Yes.

NASH. Do you recall who asked who about it?

JOYCE. I think Mr. Maxson might have been asked about it.

NASH. Is that at the May 21 Commission meeting? The meeting with Commission members?

JOYCE. It might have been.

NASH. Were all of these notes jotted down at the same time?

JOYCE. I can't attest to that. I don't really know.

NASH. The middle of the page states Southern La. data destroyed. Has basic information been destroyed? What did order say? Check on status of NGS data sheets. Why did you jot that down?

JOYCE. So that I could check on the status of the other documents we have. We have a series of documents that are on file, confidential documents, regarding gas reserves of the National Gas Survey.

NASH. When did you jot this down?

JOYCE. At that same meeting.

NASH. Pardon?

JOYCE. At that same time.

NASH. May 21?

JOYCE. I believe it was May 21, yes.

NASH. This is something you were going to find out, or someone else was going to find out?

JOYCE. I was going to find out about the status of the NGS data.

NASH. What other documents do you have?

JOYCE. I have a document that conveys to the Chief of the Division of Economics studies the same information that was conveyed to Senator Hart on the 18th I believe, of the breakdown of concentration ratios for 8 and 20 companies. This is an intra-agency document again. And . . .

NASH. It is our position, frankly, that those documents are not confidential. If you think they are we will not press the matter, we will just ask you to retain it and not destroy it.

BANGERT. In fairness to the Witness, Mr. Joyce, if you believe that any of those documents you have come within the purview of either the order in R-405 or the order from the FPC General Counsel in his memorandum to the Executive Director, then and you believe you are under constraint to furnish those documents, and to do so would violate an order that you have received then we ask that you merely identify those for the record and that you do not destroy them but hold them within your possession.

JOYCE. Mr. Bangert this does not have anything to do, of course, with the question of alleged destruction of documents. This is merely a compilation of 4, 8 and 20 largest companies and a transmittal document that says this is in response to your memorandum requesting information, this has been prepared and is transmitted to you. I do not believe that it really deals with, well, certainly, this part of the document is not because you have it. That was transmitted to Senator Hart's Subcommittee. So there is no problem about that.

NASH. Let the record show the witness is pointing to a worksheet containing concentration ratios.

JOYCE. And I will give that to you as a matter of fact it's part of the record but again it has nothing to do with the alleged action of destruction of documents. And, if you will, I will retain this document and then will have . . .

BANGERT. Do you believe that the document you hold in your hand that you are constrained to give that to the Subcommittee by an order outstanding of the FPC or by an order of the General Counsel's office?

JOYCE. No, but because this is not to my knowledge reveal anything that is confidential. I guess the only question that I have is any constraints under the Freedom of Information Act and it is because I don't know whether or not an intra-agency document should be released now.

BANGERT. In your opinion, is that document one referring or relating to the use or disposition of documents involved in the alleged attempted destruction?

JOYCE. Not this document, this document is merely a transmittal document. The information is contained in the document which I transmitted to you. This one is merely a document of transmittal and I am, well, I don't want to make an issue of it because—I'll just give it to you. It is merely a transmittal document.

JOYCE. No, go ahead and take it that is all right.

BANGERT. All right.

JOYCE. I do not believe that that document in itself deals with the question of the alleged destruction of documents.

BANGERT. We will mark it as Joyce Exhibit 8.

NASH. Do you have any other documents?

JOYCE. Yes.

NASH. With you?

JOYCE. Well, I have the other copies of which are—

NASH. We can omit that.

JOYCE. This and this document on which. Yes this is a document on which again I would have outlined at the bottom there the chart that I had proposed to prepare as I started to outline here.

NASH. We will mark this as Joyce Exhibit 9. It is a single white sheet of lined paper with 10 written penciled notes. When did you prepare this, do you remember?

JOYCE. I believe on May 21.

NASH. Which was done for the purposes of what?

JOYCE. Of preparing information to be used in hearings before the Congress.

NASH. What do you mean by note what has been re-requested by staff?

JOYCE. By the staff of the Antitrust Subcommittee as I recall taking that note just to note what has been requested in the letter that Senator Hart sent.

NASH. Did you get a request from the staff of the Subcommittee?

JOYCE. No. Well, that letter.

NASH. The letter from Chairman Hart?

JOYCE. Yes.

NASH. You're construing that as a request from the Subcommittee staff?

JOYCE. Yes, apparently.

NASH. I see. But you aren't referring to a different request other than the letter of request of Chairman Hart?

JOYCE. Yes.

NASH. Do you have any additional documents?

JOYCE. I have a document again that was sent by me to the Chief of the Office of Economics on uncommitted natural reserves. On March 21. This was when we had all of the information to prepare for the study. This document, of course, has subsequently been found to be in error, the error has been pointed out and has been—the errors have been rectified and the new document put into the record supplants this.

NASH. We will mark this as Joyce Exhibit 10. It is a March 21 memorandum to Chief, Office of Economics, from Chief, Bureau of Natural Gas. A one page partially illegible attachments showing concentration ratios. Anything else, sir?

JOYCE. This I believe is a copy of a letter to Senator Hart, dated March 20. I believe you may already have a copy of it.

NASH. Yes, but if you don't mind we will mark it for the record.

JOYCE. All right.

NASH. As Joyce Exhibit No. ____

JOYCE. That does not have the attachment with it.

NASH. It is a March 20, 1973 letter to Chairman Hart from Mr. Joyce. Are there any other documents that you have been able to find with respect to the request to produce . . . ?

JOYCE. You have this document.

NASH. Are you talking about the June 4 . . . ?

JOYCE. Mr. Forquer's memorandum . . .

NASH. Do you desire to produce that or do you believe you are constrained . . . ?

JOYCE. I would ask Mr. Forquer to provide that for you.

NASH. Surely. Do you have any other documents?

JOYCE. No.

NASH. Can you state for the record those documents coming within the Subcommittee's request which you believe that you are under a constraint by a Commission order or by an order or ruling of any other Commission people respecting what you cannot produce here?

JOYCE. Would you mind restating that?

NASH. I am trying to get a specific identify for the record of what is encompassed within the Subcommittee's request and which you cannot respectfully produce, because of constraint placed upon you by your Commission or by your General Counsel or by your Executive Director or by anyone else.

JOYCE. I have no constraint placed upon me by any official or member of the Commission. The only document which I am constrained to produce is a copy of the document from the General Counsel to the Executive Director which is an intra-agency document which I think more appropriately would be transmitted by others than myself. This is an information document to me, it has significance in my dealings with the staff.

NASH. In fairness to you, isn't it correct that you are not producing the 79 company responses because you believe you are under a Commission constraint by virtue of the Commission's order?

JOYCE. That is correct. Yes.

NASH. And in further fairness to you, aren't you not producing worksheets because you believe the worksheets are encompassed within Mr. Forquer's memorandum.

JOYCE. No, I believe that the worksheets, of course, the summary sheets, also identified by individual companies, the data, and therefore are encompassed within the terms of the order, yes.

NASH. Along those lines, and in fairness to the record, I would like you to specifically describe other documents or data that exists that would be encompassed within our request but you cannot produce.

JOYCE. You mean because I no longer have them.

NASH. No, because you are under constraint.

JOYCE. No, I am not under any constraint except for the 79 responses that deal with the uncommitted reserves, but any other notes or anything else I am not under any constraint to produce those.

NASH. Aren't there transmittal letters with the 79 responses which do not divulge confidential information?

JOYCE. But they are a part of that record.

NASH. Do you believe that you are under a constraint in producing them?

JOYCE. Yes, because they are a part of that record.

NASH. Do you believe anything filed in connection with that record cannot be produced?

JOYCE. That is a decision for the Commission to make.

NASH. I have one additional question at this time, with respect to the letter to Chairman Hart dated March 20, which you signed telling the Chairman why he can't get certain material under the line of Freedom of Information Act. A moment ago you said you don't understand the Freedom of Information Act, you were going to have to speak to somebody about it.

JOYCE. No, I didn't say that I didn't understand the Freedom of Information Act, I said that I didn't understand the Freedom of Infor. Act as it might apply to intra-agency documents. But application of the Freedom of Infor. Act and Natural Gas I think is clearly stated in both the Commission's order regarding the uncommitted reserves and also in subsequent letters to Senator Hart.

NASH. Have you ever read the Freedom of Information Act?

JOYCE. I have read Sections 4 and 9.

NASH. Do you believe it applys against the U.S. Congress?

JOYCE. I am not in a position to make that judgment.

NASH. Would you be surprised to learn there is an explicit sentence in the statute itself saying this shall not apply against the Congress.

JOYCE. That again, is something the Commission will have to check and see.

NASH. It is in the statute. Did you draft this letter yourself, Joyce Ex. 11?

JOYCE. No.

NASH. Who drafted it?

JOYCE. Mr. Mangen.

NASH. Did you tell him how to draft it?

JOYCE. Yes.

NASH. Did you tell him to refuse to produce the data based upon the Freedom of Infor. Act and the Natural Gas Act, or was that his decision?

JOYCE. No, that was my decision.

NASH. Did the Commission give you instructions respecting that that decision should be made?

JOYCE. The Chairman—this letter was discussed with the Chairman, the contents of the letter because this was a staff report that was issued and it was indicated that the language in the Freedom of Infor. Act prohibited disclosure.

NASH. Before you drafted this letter, did the Chairman indicate to you that you should or should not supply the data to Senator Hart.

JOYCE. That was my decision.

NASH. Before you drafted the letter the Chairman told you nothing whether the data should reply to Senator Hart or not?

JOYCE. No, I think I pointed out that the Freedom of Information Act was stated in the order.

NASH. I know what the order stated, I know what your letter stated, now I want to know what instructions you had from your Chairman?

JOYCE. I do not remember.

NASH. And your testimony here that you do not remember whether Chairman Nassikas told you to supply the data to Senator Hart ...

JOYCE. I cannot remember explicitly that he directed me one way or the other.

NASH. After you ...

JOYCE. I believe that your letter was discussed and it was felt that this information was—the confidential nature of it was protected by the Natural Gas Act and by the Freedom of Information Act and, of course, the Commission now in their letter of June 18, has responded to this inquiry.

NASH. But on May 21, is it your statement that you received an implication but not a direction that Chairman Hart was not to receive the data?

JOYCE. No. No. Not that he ...

NASH. You had no implication ...

JOYCE. No. Not that he was not to receive the data, no, but not at this time.

NASH. You got the implication you stated from Chairman Nassikas that Chairman Hart was not to receive the data at that time. Is that right? March 20.

JOYCE. Would you rephrase it again?

NASH. Chairman Hart wrote Chairman Nassikas on March 7 seeking some data. Your reply on March 20 citing the Freedom of Information Act and the Natural Gas Act. I would like to know before you wrote that letter before you signed that letter whether the Chairman Nassikas indicated to you whether he wanted Chairman Hart to receive the data requested or not receive the data requested?

Or are you saying you took it on your own responsibility to deny the request of Chairman Hart?

JOYCE. The letter was discussed with Chairman Nassikas, but it was my responsibility as the signer of the letter.

NASH. Before you drafted the letter, did Chairman Nassikas indicate concurrence that Chairman Hart would not receive the requested data at that time?

JOYCE. I can't say that he concurred in that.

NASH. Did he disagree with it?

JOYCE. No.

NASH. Did he remain mute?

JOYCE. He did not disagree.

NASH. After you drafted the letter, did Chairman Nassikas approve of it being sent out, or was it sent out without his review?

JOYCE. He approved it being sent out.

NASH. Did the rest of the Commission approve of it being sent out before it went out?

JOYCE. I do not know.

NASH. How did it come about that you were directed to respond to Chairman Hart's letter, rather than Chairman Nassikas responding to it?

JOYCE. The study, itself, was a staff study issued by me over my signature.

NASH. At the meeting discussed in responding to Chairman Hart's letter did he indicate he wanted you to reply to Chairman Hart's letter for him?

JOYCE. Yes.

NASH. Did he state why?

JOYCE. Because it was a staff report, and it involves a staff report. It is not a Commission report.

NASH. Was there a Commission meeting to discuss whether Chairman Hart's request would be complied with?

JOYCE. I don't know.

NASH. Do you know whether the Commission voted not to supply Chairman Hart with the data?

JOYCE. No. I do not.

NASH. Before you sent out the letter on March 20, were you aware that it takes Commission action to determine whether Chairman Hart should receive the data or not?

JOYCE. I don't know that that is the case.

NASH. Are you familiar—I realize it is approximately 5:17 p.m. now Mr. Joyce and I know . . .

JOYCE. Please go ahead.

NASH. I know that you have a 7:00 airplane tonight and I must in all candor state that several additional hours of questioning exists, and since I am prepared to change subject matter now and start afresh, I believe this would be an appropriate time to adjourn in order for you to catch your airplane. If we start another subject matter, we might have to then break when you have to catch the plane but we'd be in the middle of a line of questions and I don't know if that would be very useful.

JOYCE. Whatever you want to do.

NASH. So let me state that we apologize for the delay in taping you today but we did have more time spent with Mr. Mangen than we anticipated. At this time I cannot state the time we would want you back tomorrow. Is it correct that you will be here tomorrow—you won't be here tomorrow. What day will you be back in town?

JOYCE. Monday.

NASH. I see. We will communicate with your secretary if that is all right. As you might know, we are starting hearing on Tuesday on Natural Gas. I don't know if that time will permit us to continue our examination of you on Monday since our hearings start on Tuesday. Let us try to make that judgment and if your schedule permits we will try to work something out as soon as possible.

JOYCE. All right.

NASH. To finish this interview.

JOYCE. All right, fine.

NASH. Thank you.

Mr. Joyce, because this is a preliminary subcommittee investigation at this time, because the identity of all interviewees is not yet fully determined and

because the Subcommittee has made no determination respecting the release or manner of use of the substance of this interview, you are respectfully requested not to discuss the substance of this interview with anyone other than your own personal attorney. Thank you.

JOYCE I might point out that I was not notified at the time, that the appointment was made, that there was any prohibition against my saying when I might be here or

NASH. No, we made no such prohibition then.

BANGERT. No, absolutely not. Let the record show that at no time prior to your coming in this room was there ever a request made of you not to discuss your appearance here with anybody. We have requested all witnesses that have been interviewed, after the interview has been completed with them, to refrain from discussing it in the same manner we requested you at this point to refrain from discussing it, but certainly you never were advised prior to your coming here you shouldn't discuss it with any one and there is no intention to do so.

JOYCE. Well, I don't mean to discuss but just to notify people of the fact that I would be gone from the office and therefore make arrangement for time.

NASH. Oh, absolutely not, no. And by the same token, you are under no constraint whatsoever when you come back to finish this interview from advising your secretary or your superior that you are coming back. The only thing we ask you not to discuss is the substance of the interview.

JOYCE. O.K. Fine.

THOMAS JOYCE, SECOND INTERVIEW, JULY 26, 1973

Q. Good morning, Mr. Joyce. I think we're going to continue this morning along the same lines that we commenced several weeks ago, and I'll just briefly summarize for you some of the statements made during your last interview to refresh your recollection and make sure you have no change of mind respecting your being here.

You will recall we indicated it was a Subcommittee investigation pertaining to the attempted destruction of certain documents and you will recall that you then indicated you were appearing voluntarily and that you were voluntarily agreeing to respond to Subcommittee staff questions and you indicated that you were perfectly willing to waive your right to have an attorney present, to waive your right not to respond to any questions we might ask, and this morning, please feel free either to continue the interview and continue responding to questions, or if you desire at any point to take a break—to think about it or to consult with an attorney—or if you desire not to answer any questions, you are perfectly free to do so.

A. Well, I—the only point was, perhaps I didn't understand what you said just now, but I thought that you had at that time also indicated that I had the discretion not to answer questions at that time if I chose.

Q. Any question posed to you, which you believe you would rather not answer, please feel free not to answer it, but I'll ask you to state on the record explicitly that you do not want to respond.

Q. Are you prepared to proceed?

A. Yes. Yes.

Q. Let me try to cover some loose ends based upon the interview several weeks ago. Since that time, have there been any major changes in personnel within the Bureau of Natural Gas?

A. Ah—what was the date of that, do you recall?

Q. Just before you flew out of town to attend a conference and make a speech.

A. That was that Gilburners' Conference—June 20th. Yes, there have been some changes. Mr. Dresher, who had been my deputy chief, retired on June 30th. Actually, I believe he had been on annual leave, even on that date—perhaps I'm mistaken on that, though. And in the interim, Mr. Zarevsky was the acting Deputy Chief—ah, effective, July 5th, I believe, the date was, Mr. Frank Allen was appointed Acting Deputy Chief and is serving in that capacity.

Q. Where did Mr. Frank Allen come from?

A. He has been an employee of the Commission for several years—how long I don't know.

Q. Who did he work for?

A. He, to my knowledge, first worked in the office of the General Counsel as an Assistant General Counsel, then was an Assistant to Commissioner Moody and from there, came to serve as my deputy.

Q. Where was he employed prior to being employed by the Federal Power Commission, do you know?

A. The only knowledge that I have of that, and I'm sorry I get it confused, I believe—I believe it was Potomac Power Company, but it might be Virginia Power Company. It was one of those two power companies, and I don't know what his previous employment experience was beyond that.

Q. Is it correct that you presently intend to depart from the Federal Power Commission in the foreseeable future?

A. Well, I may sometime. I have not made any commitment to do that. Of course, I haven't resigned, but, as I told you the last time, that I may be faced with this decision sometime and I may well do that.

Q. Within the past three months have you indicated to the Chairman or to any of the Commissioners that you will be leaving the Federal Power Commission sometime this year?

A. I have indicated my desire to, if it serves the will of the Chairman.

Q. And is it your present intention to obtain employment with that pipeline company you indicated you had?

A. I haven't made any commitments. As I told you the last time, these people who I had discussed future employment with was my former employer who was in a consulting activity and a couple of other consulting firms. I have no plans—no specific plans—for employment.

Q. Is Mr. Allen being groomed to replace you as director?

A. Well, again, let me ask you as to how this is germane to the general purpose of the interview as I understood it, in other words, to deal with the alleged destruction of the documents?

Q. It's germane in trying to put in perspective the method of operation and the atmosphere created within the Federal Power Commission by the Chairman and other Commissioners to assess how something along the lines of what transpired can take place in a federal agency, and this particular question relates to the kind of personnel being employed in key positions in the Federal Power Commission, whether they're career civil servants, whether they're political personnel obtained from White House or from the Committee to Re-Elect the President, or whether they are personnel obtained from industry, whether the oil or gas industry or power industry, which is supposed to be regulated by the Federal Power Commission.

A. Well, let me not lose the response to your question and then I'd like to come back again. Mr. Allen is serving as my deputy in the functions of the deputy and that's his job.

Q. Is he being groomed to replace you as director?

A. There is no grooming involved, no. I don't really know what that term might mean, but he is serving as my deputy.

Q. To the best of your knowledge, is it expected that Mr. Allen will become Director upon your departure?

A. I have not yet departed, so I don't know what might happen.

Q. Have you ever heard any communication, oral or written, direct or indirect, indicating whether it is contemplated that Mr. Allen would become bureau chief upon your departure?

A. I don't know. People have discussed this, and I'm sure there's a lot of conjecture, but that's a decision for somebody besides me to make.

Q. Since the last interview here, Mr. Joyce, have you discussed with anyone else, the nature of the events that transpired during that interview?

A. Oh, during the interview—I was presupposing your question—I'm sorry. No. As you indicated last time, it was your desire that I not do so, and I honored that desire. I think it was a request. . . . Again, except to the extent that I have informed my superiors that I would be gone.

Q. And since your last appearance here, has anyone who was interviewed here besides yourself, indicated to you the nature or substance of the events that transpired during their interview?

A. No. . . .

Q. . . . Now, as I recall, you testified during your last interview here that prior to your appearance you spoke with the following people concerning your contemplated appearance, and I'll ask you if that is correct: Mr. Maxson, Mr. Mangen, Mr. Albares, Mr. Zarevsky, Mr. Wright, Mr. Cornelius, Mr. Slavin, and your secretary.

A. . . . To the best of my knowledge, and I had a better recollection then than I would now, but to the best of my knowledge, that would be a complete list.

Q. And, can you tell me the substance of the discussion with Mr. Maxson and when it transpired?

A. I believe I detailed this previously, and again, to the best of my knowledge, I believe that occurred the evening before, in which I asked him as to the—asked his advice as to the legal aspects of whether or not I should have an attorney present, and not as to substance of testimony or anything like that.

Q. Did he indicate to you that he had questioned?

A. Yes, and that was a point of confusion on my part the last time, because I had confused terminology. You recall they were talking about interviews, and I said I'd inferred—actually, what had happened was that he had indicated yes, he had been, had met with you and it just didn't register with me at the time that that was in the same context as this, and he did indicate to me (mumble)

Q. What enabled you to recall that now to clarify your previous answer concerning Mr. Maxson?

A. Just that the terminology involved, a "meeting" as contrasted with a more formalized interview, and as I reflected on it, I realized the question you were asking was a little bit different from my construction at the time.

Q. Have you had any oral communication with Mr. Maxson concerning whether or not he was interviewed here, subsequent to the time at which he first indicated to you that he appeared here?

A. I don't believe so, concerning the interview. I think that the limit of my discussion with him regarding that was the fact that I was—you had asked me to come up this morning and I indicated to him that I would be coming.

Q. When you left from the interview you had on or about June 20th, did you write down any notes to yourself or anyone else respecting the questions asked or the answers given by yourself?

A. No.

Q. Do you have any recording device in your possession presently or before on which you were taking (?)

A. No.

Q. What was Mr. Maxson's comment to you when you indicated you were coming back today?

A. Nothing . . . just acknowledging that—I suppose he acknowledged, I don't remember what it was.

Q. When did you mention to Mr. Maxson you were coming back today?

A. Last evening, after I got your call I contacted him.

Q. Did you see him personally or did you communicate to him by telephone?

A. Personally.

Q. You can't remember what his comment was?

A. Not specifically. I don't know if he made any comment except that, OK, or something. I just—took no particular note.

Q. How long did you meet with Mr. Maxson last night?

A. About five or ten minutes. But, what was also involved, I had given him, of course, as requested the exhibits that I had gotten back from you and he had those and I wanted to get a xeroxed copy of some of those so that I would have it for my own information so I got that.

Q. Who requested you to give him copies of exhibits that you supplied this committee?

A. That was the way I construed the requirement for all of the material involved in the R-405 subpoena, that we would give all documents relating to that and—

Q. You gave him those documents before or after the Chairman complied with the subpoena?

A. Before.

Q. What else transpired with Mr. Maxson and yourself last night?

A. Well, he just briefly discussed his investigation and that was the trend of the discussion.

Q. Did you ask him the results of the investigation or did he voluntarily bring up the investigation?

A. No. The first report of the investigation had been issued as a public document and I had that in my investigation.

Q. The question posed to you was did you ask him to discuss this investigation with you or did he voluntarily bring it up by himself?

A. I don't believe I asked him.

Q. Well, does that mean he brought it up by himself?

A. Yes, I would suppose so.

Q. What was the substance of Mr. Maxson's statement concerning the results of his investigation?

A. Well, one of the issues that was raised in this investigation and the responses to it, disposition of courier documents, . . .

Q. That was the substance of the conversation with Mr. Maxson last night?

A. Well, really, the substance of the conversation, the basis of the conversation was to enable me to get xeroxed copies of these exhibits, that had been filed, that was the basis of it.

Q. The question was what was the substance of it, not the basis of it.

A. Well, the primary purpose was to get that information and in passing, he had raised some of these other points, and I just listened.

Q. Yes. Now, what did Mr. Maxson say?

A. Well, I would not want to report from hearsay what he said. I think it would be appropriate for you to inquire of him.

Q. It's not hearsay, to begin with, since it was stated to you directly. And we have had Mr. Maxson here and, if necessary, we will have Mr. Maxson back. Presently, Mr. Joyce, *you* are with us, we're trying to obtain information from *you*. Among other things, we're testing the ability to recall circumstances that occurred to you relatively close, relatively far in the past, and we're testing your demeanor and method of responses as we contrast it with what other people say about the same circumstances, so in the event of a conflict on key points, the Subcommittee will have a basis for concluding to the best of its ability who was telling the truth and who was not telling the truth. And I respectfully ask you, Mr. Joyce, to respond to the question. What did Mr. Maxson say, in word or in substance last night respecting his investigation?

A. He said that he had to clarify a couple of points with Mr. Albares' testimony and that he had clarified those—with Mr. Albares' statement to him.

Q. What were the points?

A. As I best recall, there was apparently a discrepancy in Mr. Albares' statement although I have not read the transcript as to the disposition of some documents at some time in the past. He, at one point in the testimony, had said that they had been disposed of one way, and then another time had said they had been disposed of another way to his knowledge, and that point apparently was clarified, and—I'm trying to think of which way he said it had been clarified and I can't. As I recall the conversation, in one instance Mr. Albares had indicated he had been told the documents had been disposed of, and in another case, they had been, I believe, burned in his presence, and I just don't remember which was the ultimate answer or the clarification of that discrepancy. So this was something a little bit extraneous to my area of activity.

Q. What, if anything, were you supposed to do? concerning past disposition of documents?

A. Past—at what point in time?

Q. Prior to the attempt of Mr. Mangen to destroy the 79 responses in R-405?

A. Ah—prior to that, to the best of my knowledge in every circumstance where the Commission had gathered confidential information in the same status it was gathered by an investigating officer in the office of General Counsel—an attorney from the Office of General Counsel. And the control or disposition and handling of any document was as it is in the Commission orders that are set up this way, the responsibility of the investigating officer, and there I have no administrative responsibility, of course, in the office of general counsel.

Q. Why did Mr. Maxson tell you what his added investigation disclosed? When you initially opened up this area, you said he told you this because of something you were supposed to do or know about, concerning prior disposition of documents. Have you been asked to report to the Chairman about prior instances?

A. No.

Q. Have you been asked to investigate what occurred in the past, or what?

A. No, no. From the language of your statement, Maybe I misunderstood you or maybe you misunderstood me, but it didn't have to do with any genesis for this in any prior treatment of information.

Q. Did you ask Mr. Maxson in the past whether documents have been previously destroyed?

A. . . . I don't believe so.

Q. A few moments ago, you referred to Mr. Maxson's first report. Does that indicate that he has prepared or is in the process of preparing another report of the progress of the investigation.

A. I don't know. I think there is some language—and again, I don't have a copy of that report with me—I suppose you've gotten one. But, it was my impres-

sion in reading that report that this was not necessarily the final report, and I'm not sure of the language.

Q. Had any disciplinary action been taken against Mr. Mangen?

A. Not to my knowledge.

Q. Has any been recommended?

A. Not by me. This is an administrative matter that is in the hands of the Executive Director, as far as I am concerned.

Q. To your knowledge, has any disciplinary action been recommended against Mr. Mangen?

A. . . . By me?

Q. You've answered the question, "Not by you," so I'd be interested in the extent of your knowledge as to anyone else.

A. I do know that it has been discussed. I do not know the implementation of that at this present time.

Q. Who discussed it?

A. Mr. Maxson discussed it with me.

Q. Can you state for the record the substance of that conversation?

A. Yes. He asked me if I objected to some form of disciplinary action if that were appropriate, and said, "No," I did not.

Q. Did he indicate whether he believed it appropriate?

A. . . . I don't think so.

Q. Did he indicate that it was a political necessity to invoke some disciplinary action against Mr. Mangen?

A. A political necessity?

Q. Yes.

A. That's kind of difficult for me to really, because as you understand, that type of question is fraught with different types of interpretation, but I will respond to you this way, that if you were to say that some disciplinary action appropriate if good cause is shown for effective administration of the agency. He did not indicate that to me. He did not indicate any basis or any reason for any disciplinary action that might or might not be taken, but there was no indication of this being a "political" necessity, if I interpret your remark in the broadest sense of politics.

Q. Did he indicate the pro's and con's of either invoking or not invoking disciplinary action against Mr. Mangen?

A. . . . No.

Q. What form of disciplinary action was indicated?

A. I don't really think—there wasn't any form indicated.

Q. When did this discussion take place?

A. The week when I came back from vacation.

Q. Was anyone else present besides yourself and Mr. Maxson?

A. No.

Q. Did you indicate to him whether you desired or did not desire to have Mr. Mangen disciplined?

A. No, I did not indicate either way. The question that was put to me was did I object to the institution of proceedings which could lead to disciplinary action? and I said, no, I did not object to that.

Q. What kind of proceedings?

A. Under our regulations, whatever regulations are applicable—I just don't know. There are Civil Service regulations, I believe, that are applicable.

Q. Do you believe Mr. Mangen should be disciplined?

A. Well, you ask me a very difficult question and I'll have to answer you in all candor. Mr. Mangen has been, for as long as I've been there, a trusted, qualified, dependable employee. Having a relationship that I do, a working relationship, an intimate relationship, I can't give you an objective answer. I really feel that if any mistakes were made, I mean—errors were committed, they were made just as mistakes, no other reason than that. I can't judge, I'm not an objective judge, and I'm sorry if I have to answer you this way, but I'm sure you appreciate what I'm trying to say. It's a little unfair to ask me to judge him in that sense.

Q. I'm not sure it's unfair. You're head of the bureau, the man works for you, you set the tone for what goes on in the Division, and if what you're telling me is so, that you believe any mistake made was honest and that he's been a loyal, dedicated, trusted employee, for the life of me I don't understand why you didn't tell that to Mr. Maxson and then tell him that you didn't think there should be action taken against Mr. Mangen, if that's what you believe.

A. Well, I think that there's a lot of difference between action under the procedures to give a person opportunity to explain their reasons and to put this forth than just taking arbitrary disciplinary action, and I think that Mr. Mangen—and again, this is only my own personal opinion, I think that he can show that any errors that were made were honest errors, and I just fervently hope that no disciplinary action is required, because I think very highly of the man both as an employee and as a person.

Q. Has Mr. Mangen gotten the award that was withheld from him?

A. I'm—do you know that it was withheld? I don't know.

Q. Do you know that he got it?

A. No, I don't. I believe that the award was a part of a group award and the award was made to the group, and . . . if, if his award was a part of that group, then the award was made.

Q. Well, he was supposed to get a separate cash award for superior service in connection with one of the gas surveys he participated in. At the award ceremony, he did not receive it, is that correct?

A. Well, I can't verify the fact, although I'm—if he did, if he was approved for a separate cash award apart from the group award, I signed off on it—I did approve it. I just can't recall that there was a specific award. If you are aware that is so, then I will accept that he was not present at the award ceremony to receive the award. Now, whether or not that has been instituted since that time, I am not aware.

Q. Well, would you undertake to make a note and check for us during the luncheon break (1) whether Mr. Mangen was supposed to receive any award at the award ceremony; (2) if so, the nature of the award? (3)—

A. Now, what was number one?

Q. Whether he was supposed to receive any award at the award ceremony, (2) if so, the nature of the award; (3) whether or not he received it at the award ceremony; (4) if not, why not; and (5) whether subsequent to the award ceremony he received it.

A. I'm still on 4 . . . and 5?

Q. Whether subsequent to the award ceremony he received it; (6) when; (7) by whose authority; and (8) why?

Q. Do you have any knowledge of whether any documents received from companies or any work papers made up by FPC employees in connection with natural gas reserve work was ever destroyed prior to the attempted destruction of Mr. Mangen in R-405?

A. No.

Q. Does "no" mean you have no knowledge, or does "no" mean it hasn't been done before?

A. I have no knowledge . . . except as of the discussion with Mr. Maxson last evening, as related in the earlier testimony, but prior to that, I have no knowledge.

Q. Do you know whether documents or work papers were destroyed in connection with AR69-1, the second Southern Louisiana Case?

A. . . . No.

Q. Do you know whether documents were destroyed or work papers were destroyed in connection with the original R-405?

A. No.

Q. Do you know whether any documents or work papers were destroyed in connection with the natural gas reserves study?

A. No. To the best of my knowledge, all of the work papers that were prepared by the staff and other government experts in law, were maintained in accordance with the orders of the Commission in the custody of the technical director of the gas survey . . . and also maintained.

Q. And is it your testimony that prior to last night you were not able to find out or made no attempt to find out whether documents were destroyed in other cases?

A. Well, I didn't make an attempt last night to find that out.

Q. Well, you found out last night, something, but apart from what you found out last night, did you ever before either find out or make an attempt to find out whether documents were destroyed in those cases?

A. No.

Q. What documents were involved in Mr. Albares' case that you learned about last night?

A. Again, I can't recall specifically, but apparently it involved either the first R-405 or AR69-1, I don't know.

Q. When you spoke to Mr. Mangen, upon first learning that the documents in connection with R-405 updated were almost destroyed, did he or did he not tell you as justification for his actions, that documents had been destroyed in the past?

A. . . . I believe he did.

Q. What did he tell you?

A. Ah, . . . again I can't recall his direct words, but I think it was something to the effect that this has been done before. . . .

Q. Did you learn it from anybody else, whether it had been done before, prior to last night?

A. . . . Well, now that you refresh my memory, I think in my—in our previous discussions, you have asked a question about the treatment afforded previous documents, and I did not have direct knowledge, that is, I did not know what the ultimate disposition of those documents were, although the question was raised at that time. . . . And I, again, from Mr. Mangen's comment, I did not know what specific disposition was made of any particular set of documents.

Q. . . . Mr. Joyce, is it or is it not your testimony that prior to last night you had no knowledge whether documents had been previously destroyed prior to Mr. Mangen's attempt in R-405 updated?

A. Specific knowledge of the actual physical destruction of documents. . . . I did not know of any that had been disposed of, as you pointed out, and as I recall that people had said that this had occurred, but I did not witness nor was I aware of any specific disposition of documents. . . .

Q. Well, is it your testimony, then, that you *had* knowledge that on prior occasions documents were destroyed before Mr. Mangen's attempt in R-405?

A. . . . (long pause) I'm trying to sort out your question.

Q. Well, let me put it this way: You could know about something through several ways. You could have witnessed it, you could have read about it, or somebody could have told you about it. There might have been other ways that I can't think of, in which one obtains knowledge. And we talked about it last time, and first you said, "No," you had no knowledge. Then you changed your testimony and said, "Yes," you had knowledge. And then the first time I asked you the question today, you said apart from last night you had no knowledge. Then you said you had knowledge. And I'd like the record to be clear as to what you know and what you didn't know and how you came upon the knowledge you had.

A. Yes, and I'm sorry for having created the confusion by, through my misunderstanding, and your statement clarified the status of your approach to this question.

I did not know, witness, or know firsthand of any destruction of documents. Now, as I pointed out, Mr. Mangen, I think, when I did inquire of him—well, I forget how the inquiry came about, but when the question came up, he did make some comment that would indicate that *he* had knowledge that this had been done before, and so in that sense, I did have knowledge via him that this had occurred. And again, that was his statement, and I don't know what the basis of that statement was.

Q. Would you like to add any other clarification for the record respecting all instances prior to last night, in which you obtained knowledge where documents had been destroyed in the past?

A. Well, there may have been other instances which I just cannot recall to mind where this subject was raised by somebody. I cannot recall specific instances except the one that you pointed out. Ah, . . . and there may have been other passing . . . comments that I just cannot call to mind.

Q. Were you Chief of the Bureau of Natural Gas during the AR69-1 proceeding, second Southern Louisiana?

A. Most of it, yes.

Q. Were you Chief of the Bureau when staff went out into the field to ascertain the extent of Southern Louisiana reserves and then to commence an audit of certain companies?

A. Yes.

Q. Who was responsible for the audit?

A. Ah, . . . well, that was a litigated case. . . . ah, in which the . . . all of the preparation and presentation of evidence, the technical preparation and presentation is the responsibility of the Bureau of Natural Gas, and the presentation of the case is the responsibility of the Office of General Counsel.

Q. Did Mr. Mangen go out into the field to make estimates and make an audit?

A. I believe he was involved in that.

Q. Did Mr. Zabel go out into the field to make an estimate and make an audit?

A. I think so.

Q. Did Mr. Albares?

A. I don't know. I don't recall.

Q. Did Mr. Mangen destroy documents received from the companies or work papers he put together in AR69-1?

A. I do not know.

Q. Did Mr. Zabel?

A. . . . Again, the only information I have in that regard was in the public report issued by the Director and I think that Mr. Zabel's statement was referred to and there's some—I don't know that he—he said the only involvement, as I recall, the only involvement that he had with any of these cases this information involved these earlier cases, and I don't recall whether he said anything about destruction of documents or not.

Q. Are you testifying that, apart from what you just stated, you had not obtained and you did not know anything else about whether documents were destroyed in connection with AR69-1, is that right?

A. . . . To the best of my knowledge, yes, as far as I can recall now.

Q. Did Mr. Mangen tell you about documents having been destroyed in AR69-1 at the time he tried to justify his action in R-405 updated?

A. Well, I don't know that he referred specifically to 69-1, but as I said, my best recollection was that he made some statement to the effect that this was the way it was done before. Now, I don't know.

Q. If you were Bureau Chief at the time the documents were destroyed in AR69-1, wouldn't that be something that you would find out about?

A. No, not necessarily.

Q. Is it something you believe you should know about?

A. . . . Yes, I suppose I should, because of the responsibility that I feel that I have for the handling of any of this information.

Q. Why does staff go about in your bureau destroying documents without your knowing about it? What kind of procedure is set up to facilitate that happening?

A. Well, I don't think it's set up to facilitate that happening, but the staff—my staff—I suppose this is true in any organization—I have to rely upon them, depend upon them to operate in accordance with Commission orders, and if they fail to do this, my control procedures perhaps have failed, but . . . it's certainly a difficult situation and I don't—I do feel a very great responsibility for it, and as I've said before, I think that this responsibility, I think I must accept responsibility for the actions of people because I perhaps could have done a better job. . . .

Q. Were any documents destroyed in connection with R-405 original?

A. Again, I cannot specifically identify that they were. If Mr. Mangen's reference incorporated that, maybe that was what he was talking about, but as far as I know, I cannot identify any specific document that was.

Q. Apart from Mr. Mangen, did anyone ever tell you that the documents were destroyed in connection with R-405 originals? Did you ever read any communication indicating documents were or were not destroyed in that proceeding?

A. Not that I can recall. . . .

Q. Do you know whether work papers or other material presently exists in connection with R-405 originals?

A. No.

Q. Do you know whether they were locked in a safe in Mr. Hryskanich's office?

A. No.

Q. Do you know whether they were disposed of in Mr. Hryskanich's office?

A. No.

Q. Did anyone ever indicate to you whether they were placed in a safe in Mr. Hryskanich's office or not?

A. Not to the best of my knowledge.

Q. Are you aware of any recent inquiry to ascertain whether or not they still exist in the safe in Mr. Hryskanich's office?

A. No.

Q. Did you ever discuss with Mr. Zabel whether documents were destroyed in R-405 original?

A. Not to the best of my knowledge. . . .

Q. . . . (long pause) When the Federal Power Commission embarks upon an investigation into a study or in connection with a rule-making matter or an

adjudicatory procedure, and the Power Commission obtains information from companies, is it the general practice to maintain or destroy the information obtained?

A. . . . Well, the general practice, I would think, unless there is a confidentiality provision in the order, is to retain the information.

Q. And if there's a confidentiality provision in the order, is the general practice to maintain or destroy it?

A. Well, the ones that I have been involved with, which involved confidentiality, I would construe as being retained unless there was some other provision within that to have other disposition of the information.

Q. Which matters are you familiar with, to which you have just referred?

A. The National gas reserve study and the updated R-405.

Q. Are work sheets normally retained or destroyed when a confidentiality order is issued?

A. . . . Well, again, work sheets are maintained in the instances in which I have been directly involved, in accordance with the provisions of the order.

Q. Is it generally accepted knowledge within your bureau that documents and work sheets are to be retained?

A. Well, I can't really assess the "generally accepted knowledge" aspect of your question. People are instructed, of course, to follow Commission orders and it's their responsibility to follow Commission orders, and the work sheets that are involved have to be, on the terms of the Commission order, should be maintained and they have been (?)

Q. Have you ever given instructions or indicated to employees in your division or bureau, whether or under what circumstances, documents may be destroyed?

A. No.

Q. Did you ever tell Mr. Mangen how he should carry out his responsibilities in connection with R-405 updated?

A. No. . . beyond—well I'm not even sure I said anything about the Commission order. The Commission order was just there, I didn't give him any instructions.

Q. To your knowledge, did anybody give him any instructions concerning how he was to carry out the Commission order in R-405 updated?

A. Not to my knowledge.

Q. Would it be usual or unusual for no one to give Mr. Mangen any indication of how he was to carry out the responsibilities vested in him in that regard?

A. Well, this is a . . . supervisory responsibility and if the . . . there should be some . . . discussion and establishment of a correct procedure. Yes, there should be.

Q. To this day, you know whether such an indication was given to Mr. Mangen by anybody? Did you tell Mr. Mangen to keep the documents he was going to get in connection with R-405 updated in a confidential fashion?

A. That was the terms of the Commission order.

Q. Yes, but did you tell him to do that?

A. I don't think—to my knowledge, I didn't specifically state that to him, to the best of my knowledge.

Q. Search your mind very carefully, Mr. Joyce, and tell me whether you have any recollection whatsoever of Mr. Maxson giving any indication to Mr. Mangen concerning how to utilize these documents he would obtain in R-405 Updated?

A. . . . No, I can't recall . . .

Q. Search your mind very carefully and tell me whether you can recall being present at a time when Mr. Mangen and Mr. Maxson also were present and when Mr. Maxson was telling Mr. Mangen the extent to which these documents were to be kept in a confidential fashion?

A. . . . Well, now . . . I can't recall a meeting structured in that way, but perhaps there may have been a meeting, and I don't—I really don't recall my being present, as to the handling of the documents after they were being reconstituted, and that was to be placed in the Bureau of Natural Gas safe. But I just—I just—I can't recall such a . . . (long pause)

Q. Do you know why the Bureau of Natural Gas was vested with the responsibility to obtain the information for R-405 update? Because, as I remember, the Office of General Counsel has the responsibility for R-405 original.

A. No. I can't recall any discussion that led to that, or any particular reason for it. If I might conjecture, the analysis of the material has to be done ultimately by a technical witness anyway, and this would just reduce one involvement. . . . But I can't recall . . .

Q. . . . Do you recall any Commission meeting in which it was discussed?

A. This order?

Q. Yes.

A. Well, it was a Commission decision to update the hearing. It was arrived at in a Commission meeting. I don't know what meeting it specifically was—it was sometime prior to September 12, the institution of this—and, ah, I don't—don't recall the substance of any discussion. . . .

Q. Let's go back to the time that you first learned the documents had been destroyed or had been attempted to be destroyed, and let's try to reconstruct the events, as specifically as we can. We've had testimony from a number of people at this point and we want to be very careful to identify all the people involved, all the dates involved, as precisely as humanly possible, and that's why I might be asking you some questions again today which we covered last time.

A. Yes, because I believe we went through this.

Q. Yes.

A. And if my memory is more hazy now than it was that time, why . . .

Q. As background for that, we'll go back to March. And do you recall receiving a letter addressed to Chairman Nassikus from Chairman Hart, dated March 7, asking for some of the information in R-405?

A. I believe the dates are correct and the letter was directed to him.

Q. And then as I recall, you wrote a letter to Chairman Hart dated March 20?

A. Sometime in that area.

Q. Now, is it Mr. Magen who prepared the response for you to sign?

A. Mr. Mangen prepared . . . some of the draft response . . . I made modifications to it. Mr. Mangen gathered up most of the data involved, as you recall, a rather voluminous appendices, and he gathered up most of that. He . . . did prepare . . . much of the material that went into that, but it was not (?)

Q. Now, prior to Mr. Mangen commencing the draft, which you modified in some regard, was Mr. Mangen told that the answer to Chairman Hart would be in the negative in terms of producing the documents?

A. Either he was—he was instructed to draft the letter that way, or I revised it. I just don't remember . . . It was my responsibility.

Q. Well, when you told Mr. Mangen to draft a letter in response to Chairman Hart, surely you must have told him to draft it along the lines of yes, no, or maybe?

A. Yes, that's correct. And, as I recall, there were five points involved, or five questions, and I gave him the substance of the material that would be included in each, or the substance to be covered in each of these, and he then drafted the material and prepared the draft.

Q. Now, at the time, you gave him the indication as to which way you were going to go with respect to each of the points requested. Did you then have knowledge that the Commission of the Federal Power Commission desired you to proceed in that fashion?

A. No. . . . This was a letter from me—this was a staff study—this involved a staff study . . . the questions that were raised in this. And I responded, since it was a study that I had issued—or that had been issued over my name—and I responded to that, and the response was my responsibility.

Q. Right. The letter was addressed to Chairman Nassikus, and as I remember, Chairman Nassikus called you up, or for some reason, you were at the Commission, and you were shown or furnished a letter from Chairman Hart, is that right?

A. Yes. A copy of the letter.

Q. A copy of the letter. And, are you saying, then, that you got no indication at all from Chairman Nassikus whether you were to say yes, no or maybe to this?

A. No. I'm saying that it was my responsibility. . . . The letter was my responsibility, since I signed the letter, it was my responsibility.

Q. I'm not trying to find out whose responsibility it was. I'm trying to find out whether you got an indication from the Chairman as to what the response to Chairman Hart was supposed to be?

A. Well, we discussed how the question could be responded to, and I offered my suggestion as to the information and what information was available in response to some of these questions, how they should be responded to, what action was taken and what should be done.

Q. Well, when you left the Chairman with a copy of the letter, were you under the impression that you were to tell Chairman Hart yes, no, or maybe?

A. Well, I was under the impression that I told him what the letter said, that this was not available—the key element, I'm sure, you're referring to is the identification of the specific company, and . . . that, this was not available in the dis-aggregated form under the terms of the Commission order.

Q. Between March 20, when I believe, the letter was sent, and May 21, when, I believe, you received another letter from Chairman Hart indicating a hearing was going to be held and asking for some of this material for the hearing, did you have any indication from anyone that the documents received pursuant to R-405 updated were destroyed, or were attempted to be destroyed, or were instructed to be destroyed?

A. No. . . . I, well, of course, the way that I found out about it was, as I've indicated, was that I was going to have Mr. Mangen prepare this list.

Q. But this was after May 21st?

A. Yes, that was on May 21?

Q. Going back before May 21, you had no indication whatsoever that the documents may have been destroyed or may have been attempted to be destroyed, is that your testimony?

A. Yes.

Q. Prior to May 21 were you aware of efforts of the Office of Economics to obtain certain information supplied by the companies in connection with R-405?

A. Yes.

Q. Were you aware of any statement made by Mr. Mangen in March or April in 1973, whether in jest or otherwise that he was going to destroy the company responses, or that he had destroyed the company responses?

A. Not that I can recall.

Q. Did anyone besides Mr. Mangen advise you that Mr. Mangen had told such persons that he had destroyed it or that he was going to destroy it?

A. No.

Q. Did Mr. Albares tell you that?

A. No. Not to the best of my knowledge.

Q. Did Mr. Zabel tell you that?

A. No.

Q. Did Mr. Pavetto tell you that?

A. No.

Q. Did Miss Powell tell you that?

A. No. Not to the best of my knowledge. . . .

Q. . . . Now, you were called up to the Chairman's office sometime in the morning of May 21, is that right, with respect to Chairman Hart's letter of May 18?

A. The date is correct, I believe.

Q. It was a Monday, is that right?

A. I think so, I think so.

Q. At the time that you were called up with regard to Chairman Hart's letter, did you know that the documents were destroyed or were almost destroyed?

A. No.

Q. What did the Chairman tell you to do when he called you up and showed you Chairman Hart's letter?

A. Well, he asked me to start preparing certain material that would be responsive to the inquiry, and ah . . . one of the . . . well, I just don't recall what that letter—there were a number of things, and we went over a number of things we thought would be responsive to the inquiry and Commission actions and other things, and one of the things that I suggested that we ought to prepare from this information . . .

Q. From the work papers or from the letters themselves?

A. From the work papers. This would be available in the work papers . . . was a listing of the companies by areas, the geographical areas, the amounts of reserves, and—so that we would have that information ourselves. . . . (voice drops) and then the decision would be made as to what to do with it.

Q. And, I take it, you got the go-ahead to do that.

A. Well, I went ahead and did it—er, started to do it.

Q. Tried to do it?

A. Yes. That's when I contacted Mr. Mangen to start the preparation of this material.

Q. And, this would have been before lunch on May 21, is that right?

A. I suspect so, although I don't exactly . . .

Q. Did—you, before you communicated to Mr. Mangen your desire that he proceed, Mr. Mangen know of Chairman Hart's letter of May 18?

A. . . . I don't know. Not that I'm aware of. . . . I don't know.

Q. . . . What did Mr. Mangen tell you when you told him you got Chairman Hart's letter and that you wanted to work up certain material?

A. He said, "We don't have that information," or words to that effect.

Q. Did he tell you why?

A. Yes. He said those had been destroyed.

Q. Did he tell you why they had been destroyed?

A. Well, I think then the colloquy that we were talking about before followed. I asked him why this was done, and he made some comment to the effect that this had been done before. And, because I, at that time, reviewed the order instituting the proceeding, and asked him under what terms of the order this . . .

Q. You say "at that time." Do you mean you had the order right around and you just whipped it out and looked at it, or did you leave it for a while and just look at the order, or what?

A. The best I can recall, we met in my office and I had the order in my hand.

Q. And to what did he point in the order as justification for his actions?

A. I don't recall that he pointed to anything.

Q. Did this take place before lunch on May 21?

A. I think so. I can't recall the exact time. I very seldom eat lunch anyway, so I don't break—just don't remember the time, but it was early in the day.

Q. Well, if the Commission meeting was in the morning, and you did this right away, does that help you recall whether it was done before lunch or not?

A. . . . Well, lunch—I don't . . .

Q. Around noon?

A. Again, I just don't recall the time . . . I'm sure there is some significance to it, but I don't recall the particular time . . . Indeed, I'm not trying to be evasive on that particular point, because I don't know how to answer your question. I just don't know what the time was. . . . But, it was a continuous sequence of events. . . .

Q. Did Mr. Mangen indicate to you on May 21 that he was a little upset at the fact that Chairman Hart was trying to get the information that was supposed to be confidential?

A. I don't believe I can construe his response, any response that I can recall in that way, no.

Q. Did he indicate to you?

A. I—ah, well—no, I couldn't construe it.

Q. Did he relate his actions to Chairman Hart's request to get the data?

A. . . . Did he relate his actions?

Q. Attempting to destroy the material?

A. . . . No, not that I can recall.

Q. Well, did he say anything on May 21 about Chairman Hart's efforts to get material?

A. No. Not that comes to my mind.

Q. Well, what did you mean by your answer when you said you couldn't construe what he said as relating to Chairman Hart?

A. . . . Well, there was no—no—as I can recall, there was no . . . no mention of relating this to Senator Hart's—relating this to Senator Hart's request for the information.

Q. Did he indicate to you on May 21 that he was a little upset at the fact that the Office of Economics kept asking him questions about the information received under R-405 updated?

A. Well, he made reference, and again, I can't recall the specific reference, but he made reference to continuing inquiries for the information . . . and again, I don't remember that he referred directly to the Office of Economics—so far as I know, that was the only group that had requested this information.

Q. Well, in what context did he mention to you on May 21 that there had been repeated efforts to obtain some of the information in R-405?

A. . . . As I recall . . . the general tone of the conversation was . . . that people had been making continuing inquiries for more and more information.

Q. Well, Mr. Mangen indicated that?

A. . . . Yes, as best I can recall the conversation.

Q. Well, why did he mention that, why did you discuss that people were making more and more inquiries to get information about R-405?

A. I don't know.

Q. Did he say, "Gee, I'm really sorry I did it because a lot of people are now trying to get it," or did he say, "Well, I destroyed it because people were always on my back to try to get it?" We're talking about whether the information existed or not and I'm trying to pin down what got you off discussing, why did he indicate that a lot of people had been trying to get it?

A. . . . I don't know what . . . can't recall what might have prefaced that comment . . . and ah, what he had in his mind as to why he raised that particular subject.

Q. Did he just say out of the blue, "You know, a lot of people have been trying to get this information?" And that was the end of the discussion about people trying to get some of the information in R-405?

A. Well, I don't think it was the end of the discussion. As best I can recall, . . . no, I don't want to conjecture . . . but I just can't recall what the precise course of the discussion was . . . and again, you'll excuse me if I'm confusing discussions, but it may have been at that time something that he mentioned the work was finished with at that report and he didn't want to have the responsibility—the continuing responsibility for that information being in the Commission. Now, I'm not sure whether that relates to that conversation or some other time, and of course, that information is contained in the investigative report that was issued.

Q. Well, let's talk about the fact that people have been trying to get some of the information. If you didn't understand why he brought that up, did you ask him what that might have to do with anything?

A. No. That wasn't my problem at that point. My problem then was, Where was the information, what could we do about getting the information. . . .

Q. Now, let's try to really probe deep into the mind and see if we can't remember the context at the point in time at which Mr. Mangen on May 21 indicated that a lot of people, or some people, had been trying to get the R-405 information, because it's very important to know to what he was relating that statement.

Was it the first thing he said to you or the last thing or did he say that right after he said, "It's been destroyed?" Think about it a little bit.

A. . . . Well, I'm just trying to reconstruct the discussion that we had—I asked him—I told him I wanted to have him set up this structure: that of the companies by areas and the specific volume too; to structure them in that way, and his response was that he didn't have that information anymore to do that with, because it had been destroyed. And I asked him, how that could be done, or why that was done, and again, some general statement, without trying to state directly what he said, but that was the way it had been handled before. So then was when I asked about where in the order was that this could be brought up—or could be handled in this way, and we searched through the order and again, I think, that recalling as best I can, he made some comment that, well, he construed the language of the order in a certain way. And then, I don't recall that I asked him why he destroyed it, and I am perhaps guessing more than I should, but I have a recollection that he did express some statement of concern about the inquiries that had been made for additional information, and I just don't know how—what precipitated that, or what he meant by it, ah . . . in so stating.

Q. In your mind, do you see a causal connection between the act of destruction and the fact that people had been trying to get the information as being the reason for the destruction? . . .

A. Not in my mind. I think I would have to see what's in his mind.

Q. Did he. . . .

Q. Mr. Joyce, on that May 21 day, did Mr. Mangen either directly or indirectly indicate to you that he had been badgered or bothered or that he was upset with the number of requests from the Office of Economics for information underlying R-405?

A. I wouldn't characterize his response as his being badgered or being upset about it.

Q. How would you characterize his reference to the Office of Economics?

A. Again, I can't really say there was a reference to the Office of Economics, because I just don't recall that it was a specific reference and made in that way, but as I recall, he did say something to the effect that he had gotten several inquiries for information.

Q. Were you aware of who made inquiries for the information to him.

A. Ah.

Q. Apart from the Office of Economics?

A. No.

Q. . . . Were you aware of how many inquiries he received from the Office of Economics?

A. No. I don't know. . . .

Q. . . . (long pause to 024)

Q. Well, what happened after Mr. Mangen told you he could not provide the information you requested because his documents had been destroyed?

A. Well, again, I think I reviewed my subsequent actions in my previous discussion, and I hope that I . . . my recollection is the same as it was at that time. As I recall, I asked him what disposition had been made, and he said he had taken them to Mr. Vivian, and then I don't recall the specifics of how I, whether I called Mr. Vivian or went to his office or what, but I did, physically—went to his office where he had the material, and found out at that time that he had this material in, as I recall, in one or two paper bags and some of them were in a drawer, and he and I then sorted out extraneous material that we could recognize as being extraneous.

Q. You and Vivian?

A. Yes. And I don't recall if there was anybody else at that time involved in that or not.

Q. Well, did Mr. Mangen go with you?

A. . . . No. Not at that time, I don't think.

Q. What did you sort out, the 79 responses or the work sheets?

A. Everything. . . . They were all, there were work sheets, the tabulation sheets, and the responses, and we sorted out all of them.

Q. That was May 21, the same day?

A. Yes. That is, we segregated the pieces. There was other material that was obviously not involved in that, that was recognizable.

Q. What did you do after you segregated out the material—did you bring it back to your office or give it to Mangen?

A. Again, I believe, the exact mechanism of transfer escapes me, whether I physically brought them back or perhaps Mr. Mangen brought them back. I don't remember, but in any event, the first thing that I asked him to do was to look and to make sure we had all of the tabulation sheets that we could put all of those together and then start to work on putting together the other papers, and this was commenced immediately.

Q. The same day?

A. Yes, I believe it was.

Q. On May 21, the material—all the information, all the documents that were ripped up were taken out of Mr. Vivian's possession?

A. Well, I can't be sure of that, really—ah, we—it was, of course, . . . some time before we had all of them to the point where they could be reconstituted and make sure we had everything and I don't remember—I just don't know whether all of the documents actually were taken from there at *that* time or whether there were other—we had to go back—somebody had to go back and check through again.

Q. But the intent was to get all the documents—is that right. You're just saying since they were ripped up, you might have left one or two scraps behind?

A. Well, we tried to sort out everything within the time available.

Q. You tried to sort out all the documents that were ripped up and you tried to sort them out on May 21, is that right?

A. To, to get all the pieces.

Q. To get all the pieces, not to put them back together or tape them.

A. No.

Q. But to get all the pieces out of the burn bags or whatever else they might have been kept in in Mr. Vivian's office, is that right?

A. Well, ah: . . . I—I, as I recall, I worked—since I was there and—went to *view* (?) what was there, I did some of this physically myself. Now, I—I just cannot recall whether we got through *all* of the material while I was there, or whether subsequently somebody else may have assisted Mr. Vivian, and done that (inaudible)

Q. It's your recollection that on that same day that the material was brought down to your office, is that right?

A. . . . It was brought, I believe, to Mr. Mangen's office.

Q. It was brought to Mr. Mangen's office?

A. I believe so, because, as I recall the work on—the first half, of course, of putting together the work sheets, as I recall, was done in his office.

Q. Where were the actual responses kept?

A. I do not know.

Q. Were the actual responses taken out of Mr. Vivian's office? on May 21?

A. I don't know. They may have been. . . . I asked Mr. Mangen to take over the task of making sure that we could get all these sorted out and reconstituted and I don't know specifically what the timing was of his handling of it.

Q. Did you specifically tell Mr. Mangen to sort out all the documents that he tried to destroy, and the work papers and the responses or did you instruct him to reconstitute the work papers only?

A. No. I instructed him, to the best of my recollection, I instructed him to reconstitute *first* the tabulation sheets, to make sure that we had all of those and had all of the information in *fact*, and then, when that was completed, to reconstitute the other papers.

Q. Why did you want the work sheets reconstituted first?

A. Well, they were just the first check sheets that we could make. They were less in number and more readily identified, and I just wanted to make sure that we had all the—did have all of the information. . . .

Q. . . . Well, when you left Mr. Vivian's office on May 21 for the first time, how much of the material did you have sorted out, away from the other type material that was going to be destroyed?

A. . . . Quite a sizable portion, as I recall.

J. Well, was it your intent that it be taken down to the Bureau of Natural Gas facilities and out of the possession of Mr. Vivian?

A. Yes.

Q. Is that what you told Mr. Mangen to do?

A. I can't recall the specific instructions, but what I—my intent was to have him get all of this material and to begin the reconstitution to see if it was all there, and if it wasn't, to see what was not there.

Q. Was he to bring all of the material down to the Bureau of Natural Gas at the same time, or was he to bring the work sheets down only and leave the responses in the possession of Mr. Vivian?

A. I didn't specify that. The only specification that I made that I can recall was that I asked him to first put together the tabulation sheets. I don't recall that I specified the actual transfer of information or the timing of that.

Q. I don't know what you mean by the transfer of "information." How about the transfer of "documents"—did you tell him to transfer the documents from Mr. Vivian's office down to the Bureau of Natural Gas offices, or did you tell him just to bring the work sheets down?

A. I don't think I differentiated. . . .

Q. Well, do you recall what you told him to bring down to the office in the Bureau of Natural Gas?

A. No, I can't recall what I *told* him, but I—I had anticipated that it would be all of the documents.

Q. Do you know whether he brought down only the work papers in the first instance and then a day later returned for the questions—for the responses from the individual companies?

A. No—I don't.

Q. Could that have been possible?

A. Ah. . . . I suppose it *could* have been. I just don't know.

Q. Well, how could it have been possible if you saw what was spread out on your conference table the night of the 21st?

A. I don't know that I *saw* it the night of the 21st. On my conference table?

Q. Yes.

A. No. My best recollection of what I saw on the night of the 21st was the work sheets, in Mr. Mangen's office. Now, it may have been—and my timing may be confused, but it may have been that we indeed did have those documents in my conference room on the Monday night, I believe it was, but I—just—ah, am not positive about that.

Q. Do you recall any comment being made about the work sheets' being insufficient because they didn't contain all the company data?

A. . . . No. . . . As far as I know, it was all there.

Q. As far as you know today, do you believe the work sheets have on them all of the information supplied by the 79 reporting companies?

A. . . . It was my understanding that they did, yes.

Q. Did you ever find out what accounted for the Bureau of Natural Gas' error in transmitting concentration ratios to the Office of Economics?

A. In a general way, yes.

Q. What was that "general way"?

A. Well, ah—some of them, the persons who did the tabulations just made an error in picking off the wrong companies. In some cases, they transposed—well, I think there was some transposition of numbers, but I think principally it was a matter of just—they didn't pick off the right companies when they—went down the list of volumes for the companies. When they went down the list of volumes in the company and picked off the top four, they missed one and it was in another category.

Q. Who told you what the areas were? . . .

A. Mr. Zarevski, I believe. . . .

Q. Do you recall hearing that the errors existed because several of the companies had not been posted on the work sheets?

A. . . . No, not because they had not been posted on the work sheets. Mr. Mangen did tell me that he had made on the final draft of the report some *addition* of late filing which changed the numbers.

Q. Were those late filings recorded on the work sheets?

A. I thought they were.

Q. . . . Search back in your mind as best you can and tell me whether the events of May 21 and May 22 could not have occurred as follows: Mr. Mangen went to Mr. Vivian first and brought back to the Bureau of Natural Gas work sheets only, and that, thereafter it was ascertained that the concentration ratios you asked him to prepare could not be prepared accurately from work sheets only, and that thereupon you went to Mr. Vivian and brought back the responses from the 79 companies which Mr. Mangen had left in the possession of Mr. Vivian?

A. . . . No, I don't . . . I don't see that as a credible construction from my—from my recollection . . . (long pause to 156½)

Q. Can you recount the conversation or discussion that took place between yourself and Mr. Vivian on May 21?

A. My only recollection would be in general terms, that . . . I asked him about . . . the . . . information or the data . . . and he showed me what he had, and the—the—I believe I'm correct in recalling that he also described to me the procedure that he used in tearing them into four pieces, ah—and then he showed me the documents, and again, so far as I can recall . . . immediately he and I began to sort out this material.

Q. Where did you go when you left Mr. Vivian's?

A. . . . I can't really recall specifically . . . At some point in time I contacted Mr. Mangen to get his assistance in . . . pulling this information together, and I just don't—don't recall the exact sequence of events.

Q. Did you go back to the Commission and tell the Chairman that the documents were found and were not really destroyed?

A. I told—I told the Chairman that . . . at some point in this sequence of events, I just don't remember where it was, but I told him that they were in—that they had not been destroyed, but rather they were in Mr. Vivian's office. . . .

Q. Do you remember seeing Mr. Vivian a second time on May 21?

A. . . . I may well have. I just—I don't recall the specifics of it.

Q. Do you remember going back to see Mr. Vivian a second time on May 22?

A. . . . I can't—again, can't recall the specifics. I may well have done it. I just can't recall the specifics of the meeting. The only—the one meeting that I can recall, or the one time that I was in Mr. Vivian's office, was when we actually were sorting out the documents, and I may have been back again. I just can't recall.

Q. Do you have any doubt as to whether you were the first one to go to Mr. Vivian's office to try and salvage the documents?

A. No, I don't know that I was the first one.

Q. Could Mr. Mangen have gone there before you to salvage the documents on May 21?

A. . . . I don't know . . . Let me think for a moment to let me restructure. . . . Again, I have a problem with the exact timing of the sequence. . . . I don't know . . . there may have been an interval of time. . . . I'm not aware . . . I don't recall that Mr. Mangen indicated to me that he was there. . . .

Q. How could Mr. Mangen have gone there if he didn't know that you had to get documents back until you told him what you wanted and then he said, "Well, I destroyed it," and then you immediately went to Mr. Vivian?

A. Yes.

Q. I mean, that's what you testified to before . . .

A. Yes.

Q. And I'm just trying to find out if that's right?

A. Yes. And that's the way I remember the sequence of events.

Q. Well, so I mean, to your mind, would it have been possible for Mr. Mangen to be there before you on May 21 to try and salvage the documents?

A. I don't think so.

Q. Would it have been possible for Mr. Maxson to have been there before you? To try and salvage the documents? . . .

A. . . . I don't think so . . .

Q. Assuming for a moment that Mr. Mangen testified that he was the one who salvaged the documents and he was the first one there, can you think of any explanation as to how that might have happened?

A. . . . No . . . If you grant that assumption . . . I have no way of knowing that I was the first one there. To the best of my knowledge, I was there . . . there had been no, no—segregation or separation of documents, Mr. Vivian said. "There they are," and he and I started sorting out and piled them on the corner of the desk. Now, you had asked before to what extent this was done, and I don't recall how much I was involved in what portion of it was actually done, and if you'll allow me a reconstruction on your assumption that Mr. Mangen might have said that he was the one to salvage them . . .

Q. Yes.

A. Perhaps he could have felt that he went to Mr. Vivian's office and the documents were indeed there, maybe on the corner of Mr. Vivian's desk, because as I recall—as I recall, I didn't carry anything back with me. So, I, I—and you might construe from that that he indeed went to salvage the documents, I don't know.

Q. But you did tell him to go get the documents, did you not?

A. . . . Well, I don't know that I said the specific words to "go get them"—

Q. In substance?

A. To examine them and try to make sure that everything was there?

Q. Well, in substance?

A. Which would require his getting them.

Q. Did he indicate to you that he had already done that?

A. . . . Not that I can recall.

Q. And when you first saw Mr. Vivian did he indicate to you that anyone had already been there, inquiring of, or procuring the documents?

A. Ah . . . I don't know that he said it . . . I, if I can remember, again, the general theme of the discussion, the documents were in two—I believe he said there were some in a bag, and some in a drawer, you know—a locked cabinet drawer that he had pulled out, and I believe that he said he had, and please, I'm not sure of this, but I believe he said he had dumped those in that drawer. Now, he did not indicate to me, I don't believe, that anybody had—well—well . . . I'm not sure that he literally said that somebody had inquired about them, but I suspect that you could say that there had been an inquiry. . . .

Q. . . . How long do you remember spending with Mr. Vivian sorting out the documents?

A. Half hour—that type of thing.

Q. Half hour at the minimum or half hour at the maximum?

A. Probably at the minimum.

Q. It could have taken upwards how long?

A. Well . . . I don't know.

Q. Did Mr. Vivian indicate that he already *knew* that the documents were not to be destroyed but were to be retained when you first got there or did he act surprised as if learning for the first time that the documents were to be saved?

A. No, he did not act surprised, no.

Q. Did he act as if he had already been informed not to destroy them?

A. . . . Well, I don't know if he *acted* that way, I guess maybe I drew that inference, but since he had, as I said, he had taken some action with them and poured them into, as I recall, his saying he had emptied them into a drawer. But I think a fair inference would be yes.

Q. Did you go to Mr. Vivian to learn about the fate of the documents immediately after Mr. Mangen advised you that he had brought them for destruction?

A. No . . . no . . . Ah . . . again, as I recall . . . ah . . . he . . . I asked him to undertake the preparation of this analysis. He said, "I can't do it because the documents have been destroyed." I then informed the Chairman of this, and he, of course, then wanted to ascertain the facts of the situation and then I went—I can't—I don't recall if I went back to Mr. Mangen—let's see, I believe

I would have had to, to determine the manner in which these had been disposed of, that is, the being-torn-across-four-ways business, and then I went someplace in the interim, and I do not know from what source, maybe—I just don't know—maybe Mr. Mangen, but I don't know—that the—Mr. Vivian had not disposed, ultimately disposed, of these documents, and that was when I went to his office to physically see what the status of them was.

Q. Could it have been possible for Mr. Maxson to have gone to Mr. Vivian's office before you did?

A. . . . ah—I don't know, maybe it *could* have been. . . .

Q. Well, did you tell Mr. Maxson that they had been destroyed before you went to Mr. Vivian's office to save them?

A. . . . I don't think so.

Q. Well, if you didn't tell him, do you know how he could have found out?

A. I don't . . . I informed the Chairman and I don't know if Mr. Maxson was there or not.

Q. Do you know how Mr. Mangen could have told you that the documents had been torn? How would he know that unless he had been there before you to see them.

A. . . . Well, first of all, I am not absolutely sure that he told me that. Maybe Vivian told me that. Ah, . . . and, I, ah, . . . again, you're asking me to reconstruct events that are . . . only surmise on my part, but I don't know if he . . . I don't know if he was actually there when Mr. Vivian did that or not. I don't know.

Q. Did you ever discuss with Mr. Vivian *when* the documents were brought to him for destruction?

A. In our . . . when we were working on these sorting out of these, I may have posed the question to him.

Q. Do you recall his response?

A. I don't even recall that I posed the question. . . . and I don't recall what he responded.

Q. Do you recall ever discussing with anyone the date upon which the documents were brought to Mr. Vivian for destruction?

A. Yes.

Q. Who did you discuss it with?

A. Well, this was a matter of discussion . . . ah, . . . I believe that I asked Mr. Mangen . . . about that. Ah, . . . I don't recall specifically, ah—well, as I say, I just don't recall specifically asking Mr. Vivian, although I might have, and, ah— . . . I believe that, ah—there were some discussions, although I can't recall who was involved, except Mr. Maxson, about the timing of the delivery of the documents.

Q. Well, what did Mr. Mangen indicate to you with respect to the timing of the delivery of the documents?

A. . . . Well, again, I get—ah, I, ah, I . . . am not sure that I'm recalling from discussion with him or from what I've read in the investigative report, but it seems to me that . . .

Q. Well, do you know what's in the investigative report?

A. Yes, and I'm trying to sort out,—I don't want to attribute something to him—

Q. Right! Only if you can recall what he told you—

A. And, I just—I think it was, the best of my recollection is that he could not specify the time of when it was the documents were delivered.

Q. Did you ascertain from Mr. Albares what the timing of the delivery of the documents?

A. No.

Q. From Mr. Zabel?

A. No.

Q. From Mr. Pavetto?

A. No.

Q. From anyone else beside Mr. Mangen?

A. No.

Q. Have you ever seen any documents to indicate that the work papers and/or the 79 company responses had been destroyed, apart from Mr. Maxson's report and apart from the newspapers—any internal FPC type of paper?

A. No.—I'm sorry. This was after May 21. This was a memorandum of June 8, from Dr. Wilson, I believe, in the Office of Economics, so that was *after*.

Q. Right. But apart from that, nothing?

A. . . . (long pause)

Q. I think this would be an appropriate time to break for lunch. It's about 12:45. How about if we continue at 1:30, would that be all right, Mr. Joyce?

A. Well, ah—yes. Do you have any idea what schedule might be involved?

Q. Well, I think we might go until between 3:00 and 3:30 and make every effort to finish, but I honestly just do not know whether we can finish then or not, but if we don't we'll nevertheless break at that hour.

A. I had a two o'clock meeting, but I can get a substitute.

Q. Well, if you consider that part of some important FPC function, why?

A. I can get somebody to go.

Q. As long as you think that won't impinge on your official responsibilities. If you think it's important for you personally to attend, we would have no hesitancy about breaking till another day.

A. No, that's all right. I can get someone else to substitute, or go, if we get finished in time, I can perhaps go over there for the latter part of it.

Q. OK. Fine.

Let the record show that the interview is being resumed at approximately 2:00 p.m. Present are Mr. Joyce, Mrs. Bario, Mr. Bangert, and Mr. Nash. Are you familiar with a proceeding within the Federal Power Commission recently decided, which is referred to as the Belco proceeding?

A. Yes.

Q. Can you state for the record the extent to which the Bureau of Natural Gas participated either in the proceeding itself or in assisting the Commission with the decision?

A. Well, again, I would like to ask how this is germane to the basic purpose of the interview as I understood it had to do with the alleged destruction of documents?

Q. Well, on this question, Mr. Joyce, I think I'd rather not explicitly state at this moment the germaneness of it. I have answered that question of every prior occasion you asked it. I ask you to just accept my word for the next fifteen or twenty minutes that it is germane, and it will become quite obvious to you, I assure you, at the end of this series of questions, that it is germane.

A. All right. The Bureau of Natural Gas supplied, I believe, two witnesses in the case: Mr. Engel and Mr. Benscoter, I believe, was the title, in which they put on evidence in the case. And, beyond that, I'm not . . . aware of whether we had additional technical assistance assisting staff counsel in the conduct of that case or not.

Q. Apart from participating in the proceeding, did the Bureau or anyone within the Bureau, provide assistance to the Commission when the Commission had to render a decision?

A. Well, of course, my duties as adviser to the Commission are separate from the litigative responsibilities of the staff, and my duties included being available to advise the Commission.

Q. What position did these two witnesses take in the proceeding from the Bureau of Natural Gas?

A. I would . . . subject to checking with their testimony, which is of course public record, I believe Mr. Benscoter first of all, presented information, on I believe it was intrastate gas contracts without any conclusions or anything from that. Mr. Engel presented evidence on the cost of the—estimated new cost of gas, using the so-called "Permian" procedures that were approved by the Supreme Court in 1968 and subsequently used by the Commission, and, if my memory serves, he indicates a price range in the mid 30's—32 to 35 cents per mpf or something like that, and I would have to refresh my memory as to whether or not he in his testimony made a rate recommendation or not. I just can't recall that he did specifically make a rate recommendation. It's in the public record.

Q. Would the object of showing intrastate gas prices be to show the higher range of prices in intrastate sales to interstate sales?

A. Well, this was merely the introduction of evidence into the record of a case that was the result of a study of intrastate contract rates conducted by the Commission.

Q. Did the Commission call upon you to render an indication of your views concerning the decision to be made in the case?

A. Let me ask you, and again—I'm sorry I just don't know the legal posture of this. You're asking me to comment before you on actions of an independent regulatory agency, and I'm, I'm, I'm just not—I have some concern about whether that is legally appropriate for me.

Q. I understand.

A. You understand my concern.

Q. I understand your problem.

A. And the Commission's—let me just go one step further, that the Commission's case, its opinion, and all of the record information, of course, is a matter of public record.

Q. Right . . . I think at this time we won't pursue the kinds of advice asked for or the advice rendered. I think that's something we'll defer to a later point of time to evaluate, whether, based on the entire record, that is an integral part of the Subcommittee's inquiry, but I would like to ask . . .

A. And, of course, let me, let me—

Q. Yes, and whether it's legally permissible?

A. Yes, because this is a case on appeal, . . .

Q. Yes.

A. And of course.

Q. Yes. That would be decided in a higher forum than staff level.

A. Yes. And I don't know, maybe even my discussion of this could prejudice that case in some way, and I'm sorry—

Q. Right.

A. I just don't know the legal implications.

Q. Right. We'll work that out on a higher level than just myself and Mr. Bangerter and yourself, but for the record, I am convinced it is permissible, without inquiring into the nature of the conversation, just to ascertain the fact of whether the Commission did seek an indication of advice from you pertaining to its decision in the case?

A. Well, as you declined in one case to answer one question, may I decline to answer that one, too, for the—for the, because of the state of the problem that I have stated, not a reticence, but I . . .

Q. Sure. I understand that. No problem with it. Now, can you tell me the first time you became aware of the request of the Office of Economics to obtain some underlying data from the R-405 updated material?

A. I can't tell you the specific date, but it preceded, I think, by not too much the transmission of these, of this data which I have characterized as administratively confidential to them, and I don't remember this date again—ah, when this request was brought to my attention.

Q. Would the first time be when you received a written memorandum from Haskell Wald?

A. . . . I can't recall a memorandum.

Q. Did you receive any written communication from Haskell Wald?

A. . . . I can't recall.

Q. Do you recall Haskell Wald making an oral request of it, or did you learn about it from your own staff?

A. To the best of my recollection the request was relayed to me by Mr. Mangen. He indicated that the Office of Economics had requested this type of information, and I told him to go ahead and give it to them on the basis that I had indicated in my memorandum that this would be considered administratively confidential.

Q. How can we pinpoint the date of occurrence of this communication between you and Mr. Mangen—did that occur immediately before you transmitted the material to Mr. Wald, or was there a time interval?

A. Well, I think there must have been some time interval. I don't know how many days. I just can't pinpoint it.

Q. Well, your March 21 transmittal of the information to Mr. Wald states—and he gave it to us—I'll show it to you again: "As requested by you I directed the investigating officer, you know, Mangen, to composite and give you the four and eight largest concentration ratios and the tabulations attached."

A. Yes, yes.

Q. Now, I take it you believe you were advised of the Office of Economics request by Mr. Mangen before Mr. Wald communicated with you?

A. No.

Q. Or could it be that he spoke to Mr. Mangen about it after Mr. Wald made the request to you?

A. I frankly don't recall any communication directly with Mr. Wald about that.

Q. Oh! I see! I see. So, the language in the memo "as requested by you," doesn't necessarily mean from Wald to yourself?

A. No. To the best of my recollection that's a response via Mr. Mangen.

Q. Well, to the best of my recollection we had testimony from several people indicating that Mr. Wald had a discussion with you, or at least some contact with you, about the inability of his office to get the information and that you made the judgment and directed Mr. Mangen to give it to him. Does that ring a bell?

A. . . . I . . . can't recall a specific conversation . . . ah, I just don't know when that might have come up in the subject of the conversation, but I know that I did tell him to . . . direct him to supply the information.

Q. To the best of your knowledge, are you stating you cannot recall having a conversation or discussion with Mr. Wald concerning the request by the Office of Economics to obtain the data?

A. . . . There may have been such a conversation. I could not unequivocally state that there was not, but I just could not recall the circumstances of it or the content of it.

Q. Probe your mind a little deeper if you can and see if you can't state for the record whether you believe such a conversation took place, or, even if you can't recount the date, or the substance of the conversation?

A. . . . I just can't recall it.

Q. You cannot recall—so it's your testimony you cannot recall any words being exchanged between you and Dr. Wald pertaining to obtaining information from the Office of Economics, is that right?

A. As applied to this particular information here?

Q. The concentration ratios that the Office wanted from Mr. Mangen, which you directed Mr. Mangen to prepare?

A. Well, let me put it in time perspective again. We're talking in—in relation to the time span in relation to this conveyance of this report . . .

Q. We're talking about prior to March 21.

A. The only think that comes to mind that might have included that, and again, I can't remember whether it specifically did or not, was when we were—we had a staff meeting involving all the offices—and again, I don't recall the date of it—in which we worked out what the various offices would do in putting on the case, and that may have been a matter of discussion at that time . . . but, I can't recall that it was. If it was, ah—I just, I don't remember whether there was—I can't recall that there was a complaint voiced or anything stated at that time.

Q. Who was at that meeting?

A. Well, there was myself, one of the staff counsel, several members of my staff, Dr. Wilson, and I don't remember whether Dr. Wald was there or not.

Q. Did that meeting take place before your staff put on its testimony?

A. Yes.

Q. Do you recall whether Dr. Wilson requested from you access to the data so he could compile concentration ratios?

A. No, I do not recall that he did.

Q. Well, what conversation took place at the meeting, either in words or in substance?

A. Well, we were trying to determine what type of testimony would be put on in the case and who would cover what particular areas of testimony, and ah . . . we, ah . . . decided . . . what the BNG witnesses would put on and Dr. Wilson had some recommendations as to what he would put on.

Q. Did Dr. Wilson then indicate that he was going to put on evidence relating to industry concentration?

A. . . . I believe, as I recall, one thing that was discussed was inter-fuel competition. I don't recall the specific issue of concentration ratios being raised at that time. Again, I must say that I may have not been in that meeting all the time. It was held in my conference room and I may have been called away for other things.

Q. But you knew that Dr. Wilson was going to testify and that he was going to testify within the confines, at the minimum, of competition, is that right?

A. Inter-fuel competition.

Q. Yes.

A. Well, no. I didn't know at that time that he was going to do that. That was one of the things that he had suggested,

Q. I see

A. As a part of his testimony. I didn't know at that time what his testimony would be, and of course, his testimony is . . .

Q. Was Mr. Mangen or Mr. Albares at that meeting?

A. To the best of my knowledge, no.

Q. Was Mr. Zabel?

A. No. . . .

Q. Can you give us the names of the people who were at the meeting?

A. . . . Mr. Manning, staff counsel; I believe, Mr. Wright—Dudley Wright—one of my division chiefs; I think, Mr. Engel—Lou Engel; Dr. Wilson; . . . now, I believe there was somebody from the Office of Accounting and Finance, although I don't remember who it was; . . .

Q. This meeting would have taken place sometime in the month of February?

A. . . . Probably. . . .

Q. Now, let's try to place the time you first became aware of the request of the Office of Economics to obtain concentration data upon the R-405 docket. You testified you don't recall the request being made by Dr. Wald; you do believe you were informed by Mr. Mangen; ah, you have a memorandum transmitting the data dated March 21 from yourself to Haskell Wald. Now, did you hold in your possession the concentration data furnished by Mr. Mangen for any length of time before sending this data with the memorandum to Dr. Wald, or did you send it upon receipt from Mr. Mangen?

A. To the best of my recollection there was not any significant delay. It may have been—I don't know, I might have been out of the office for a day or two or something, but, beyond that, it was just a matter of signing the transmittal memorandum.

Q. In relation to when you sent the data, March 21, and in relation to when you received it from Mr. Mangen, which was maybe as early as March 19, if you were out of the office a day or two . . .

A. Well, I don't know about that. I just don't recall.

Q. Well, it could have been March 21 or maybe it was March 19 or 20. But, in relation to that possible date, how much earlier than that date did you tell Mr. Mangen, Yes, he's got to pull the information together and provide it for the Office of Economics?

A. I just cannot recall.

Q. Well, are you talking of days, weeks, or months?

A. Days, I'm sure. . . . I just can't recall.

Q. Why do you think it was days, rather than weeks or months? Wouldn't it take a long time to pull this information together?

A. It—it would take some time—it would take several days, I would think, but I don't—that's the best reason that I can give, just the time for preparation.

Q. You didn't sit on it or think for a long time after Mr. Mangen told you about request for information as to whether you were going to honor the request of the Office of Economics?

A. No.

Q. You decided it pretty promptly when Mr. Mangen came to you?

A. Yes. I feel that I decided it quite promptly.

Q. Well, what did Mr. Mangen say to you when he came to you with the request of the Office of Economics to have access to such data?

A. . . . As I can best recall, he said that they wanted the four, eight, and twenty compilation, and, ah . . . nothing beyond that.

Q. Did he tell you that he didn't want to give it to them because it was confidential?

A. . . . No. Not to my knowledge.

Q. Did he request permission to give it to them or was he just advising you what they wanted?

A. . . . Well, I transmitted it—it was a transmittal from me—the information. And he was requesting—I would assume that he was requesting authorization from me to convey it, or to prepare it and have it conveyed in this aggregated form, to them.

Q. Well, before he gave you this transmittal to sign off on and to send it to the Office of Economics, did he come to you and ask whether he should or should not prepare the four, eight, and possibly twenty company concentration ratios?

A. Yes. Yes.

Q. Did he tell you why he was asking to do that—did he tell you it was for the Office of Economics?

A. . . . I believe so, yes.

Q. Did he tell you whether he thought it was appropriate to send this data?

A. . . . Not that I can recall.

Q. Well, why did he ask you whether he should prepare it?

A. I suppose he wanted to know whether I would approve the transmittal of it.

Q. And, you think this was within days of the time in which he brought the material to you for transmittal, is that right?

A. . . . Yes, I think so.

Q. You have no recollection of Haskell Wald or anyone from the Office of Economics, apart from that one meeting in February, communicating to you the desire for the information and the inability to obtain it, is that right?

A. I just can't recall the specifics of any discussion like that.

Q. Can you recall any discussion like that, even if you can't recall the specifics?

A. No.

Q. Did you know there was a confidentiality order attached to the documents when Mr. Mangen asked you if he could prepare the concentration ratios for the office, did he relate to you that the documents were confidential?

A. Either he related it to me or I was aware of it.

Q. Did you assume or believe that the confidentiality order obtained to the Office of Economics as well to bar access to it?

A. Yes.

Q. Don't you consider them part of the Federal Power Commission?

A. You understand now, under the terms of that order there was an investigating officer appointed, and the Natural Gas Act says that information received can only be disclosed by order of the Commission.

Q. You view that as being disclosed to other FPC employees as well?

A. Yes.

Q. Well, if Mr. Mangen was the investigating officer, charged with carrying out the Commission's order, why would he need your OK to send concentration data to the Office of Economics—if you weren't the Officer and he was?

A. Well, I'm not sure that he *would* need my OK, but I suspect that he felt that he should request it. . . .

Q. When Mr. Mangen spoke to you, did he indicate to you that the Office of Economics had been asking for data from R-405 on a rather continual basis?

A. I can't recall that it was cast in those terms.

Q. Did he indicate any unhappiness with the fact that the Office was seeking such data?

A. . . . Well, again, I won't attempt to construe his state of mind. I don't . . . know that he was unhappy, particularly.

Q. Based upon words expressed did he indicate that he was not pleased with the fact that the Office of Economics was attempting to obtain data which he controlled as investigating officer?

A. Well, I just can't recall the words, but I suspect, in most instances where people are asked to do—take on another job when they're quite busy anyway, they're a little reticent or a little concerned that this takes away from their work that they have a priority assignment or responsibility for.

Q. Were you aware of other requests by the Office of Economics for data compiled by the Bureau of Natural Gas made to Mr. Mangen, which resulted in the Office of Economics' pointing out errors in the work of the Bureau of Natural Gas?

A. Not until I read the material that was in the report of the investigation.

Q. Do you have any recollection of Haskell Wald chatting with you after a Commission meeting, at which time he asked you to please prepare the concentration data which the Office of Economics had been requested, but couldn't get?

A. . . . I can't recall such a conversation, although I wouldn't preclude the possibility of it occurring.

Q. Before Mr. Mangen gave you the concentration data to be submitted to the office of Economics, did he ask you to put in writing that the material would not violate the confidentiality provisions of the Commission's order?

A. (to himself) Did he ask me to put in writing . . .

Q. Yes, did he ask you for a written assurance that . . .

A. Well, I signed the transmitting memorandum, and in that it was my decision that this would not violate the provisions of the order, but should be held administratively confidential.

Q. Yes, but did he ask you for a specific written statement that in your view this did not violate the Commission's order?

A. Mr. Mangen?

Q. Yes.

A. Separate and distinct from the transmittal memorandum?

Q. Yes.

A. Not to my knowledge.

Q. Is it correct, then, that to the best of your recollection you first learned of the Office of Economics request for the concentration ratios somewhere within the week prior or within ten days prior to March 21, when you submitted it to them?

A. Well, I just can't specify the date in relation to the March 21 date because I just cannot recall how long was required to prepare that, when this request was conveyed to me. . . . Ah, I have no reason to believe that there was an undue delay in the preparation of the information or the transmittal of it.

Q. You have a recollection that it was a matter of days from the time you first learned of it to the time you first sent it to the Office of Economics, is that correct?

A. . . . To the best of my recollection.

Q. Is it possible that you had a conversation with Dr. Wald seeking the data around March 2 or 3?

A. Is it possible?

Q. Do you have any recollection of a conversation with Mr. Haskell Wald around March 2 or 3, where Mr. Wald requested certain data, certain concentration data, to be supplied to the office?

A. . . . No, I just can't recall that—can't recall the conversation.

Q. Is it possible the request to you came from Mr. Mangen or Mr. Wald for concentration data to be assembled at a period in late February?

A. . . . Again, I can't—I just can't pinpoint the date. I'm sorry, but I just don't know . . . I . . . have no reason to believe that that request for information was handled in any way except the most expeditious manner.

Q. Do you know whether the information was compiled as requested by the Office of Economics before Mr. Mangen asked you whether he can compile it and comply with the request of the Office?

A. No, I do not know whether it was.

Q. When Mr. Mangen talked to you about the Office of Economics request, did he indicate to you the purpose of the request, why they wanted it?

A. . . . I can't recall that he did.

Q. Well, why would you authorize him to give such information to the Office of Economics without knowing for what purpose they wanted it?

A. Because I have tried to develop a pattern of cooperation with the Office of Economics, and if they request information which they want and I think is available to them, I have tried to supply it to them.

Q. Probe your mind as best you can and try to recall whether you knew from Mr. Mangen or some other way that the information was—whether the information was requested for use in the Belco Proceeding?

A. . . . No, I can't recall an association of that request with Belco. But, let me point out something in general in this whole line of questioning. Now, you realize that there are other remedies if people have problems in obtaining data. The resolution of that problem doesn't have to lie with just a staff member or with me. Anybody has access to the Executive Director, we have an administrative procedure to handle these inquiries: the administrative director administratively to the Chairman and ultimately to the Commission. So, if this line of inquiry, and—again, I'm not sure how it relates to the status of the interview—if this line is intended to try to establish some delay, some purposeful delay, then people had—if they felt availability of information or information was being withheld from them, or that they were not getting it in a manner in which they should, they had other remedies to resolve this question—remedies far above my power to resolve. . . .

Q. We know that in fact there was a rather substantial delay between the time the Office of Economics made the request for information for use in the Belco proceeding and the time it received the information from the Bureau of Natural Gas. We know that the information received was erroneous, and we know that before it was received, on at least one occasion, the Office of Economics was advised they couldn't receive it because the information had been destroyed. And we know the date upon which the information was initially compiled by the staff member in the Bureau of Natural Gas and we are now trying to find out where the delay occurred and why it occurred. That's the reason for the line of questioning that has gone on since the beginning of this interview after lunch.

A. This has—this deals again with a staff problem of which I was not aware, and if people wanted to resolve that problem truly, they had other mechanisms for doing it.

Q. Other than what?

A. Other than asking a staff member.

Q. We have testimony that Mr. Wald asked you.

A. Well, and was my response unsatisfactory?

Q. We're not sure, because we can't pin down the dates, since you can't remember, upon which the request was made to you and where the delay occurred.

A. Then, is that the end of the remedies—is there no further recourse beyond that?

Q. Recourse where?

A. To the Executive Director, to the Chairman, to the Commission.

Q. I'm not sure what goes on in the Power Commission or why. The object of this inquiry is to find out whether the documents were destroyed because the Office of Economics wanted them to use in a pending case. I don't know what their recourse is or what their rules are. I only know what we're trying to find out and I'm telling you why we're trying to find it out.

A. Well, the point I'm trying to make is that your line of inquiry appears to say to me that if people ask me, let's assume, as you ask me to assume, that somebody in a passing conversation says to me, "Gee, I wish I could get some information from you," and that's the end of it. Well, I've got many things on my mind and perhaps I forget some of these things. There are other avenues to correct anything.

Q. I'm not implying that the fault lies with yourself. I'm not implying that you were the responsible person, deliberately or inadvertently, holding things up. But you can be of significant help by remembering certain dates to indicate which person was responsible, not necessarily yourself. I don't want you to think you're being put on the defensive.

A. Well, as I say, to the best of my understanding, I have no reason to believe that the preparation and presentation of that information was not handled in the most expeditious manner.

Q. But, I take it, you don't know when the request was first made to Mr. Mangen, do you?

A. No.

Q. You don't know when Mr. Mangen asked you whether he could accomplish the task, do you?

A. No.

Q. You don't know.

A. I don't know the dates.

Q. Well, do you know the interval of time involved?

A. No.

Q. Well, then, how do you have any basis for judging whether it was done expeditiously or inexpeditiously?

A. Well, the only thing that I can say is that to the best of my knowledge it was done in a most expeditious fashion. What is the time that is required to perform this?

Q. Do you know?

A. No.

Q. Do you know whether it could be done in half a day?

A. No.

Q. Do you know whether it might take three weeks?

A. No. . . I don't know that it would take that long.

Q. How long did it take when you had the task force doing it for Senator Hart?

A. . . Several days.

Q. Several days?

A. Yes.

Q. To do it the first time? Or several days because it was done wrong the first time and had to be done twice?

A. Well, to complete the job it took several days.

Q. What do you mean by "complete the job?" Doing it twice, right?

A. Well, he had to recheck and revise.

Q. Didn't you have to do it the second time because it was done wrong the first time?

A. Well, it was all part of the same procedure. We did it once, checked back, found some errors, and made the correction.

Q. The total time involved was three days, right?

A. . . . I'm not sure. I don't know whether it was done that quickly or not.

Q. How many people did it?

A. Oh, there were six or eight, I expect, involved at various times.

Q. . . . Didn't it take about two hours to do it the second time?

A. I do not know the time required but it would be, it would be very surprising to me if it were two hours.

Q. Did you consider the Office of Economics, to put it in colloquial terms, to be a "pain in the neck" because of their incessant requests for information and the incessant corrections?

A. I do not want to let that statement stand as you have made it. I feel very strongly that in my job as serving the Federal Power Commission, that there needs to be a cooperative effort by all segments of the staff, and I say to you with all forthrightness, that I have tried to do that on a personal basis, on a staff basis. And if anybody chooses to draw any other conclusions or to jump to any other conclusions, they are incorrect, because I have tried conscientiously to be cooperative with *all* offices of the Federal Power Commission.

Q. Did you ever hear Mr. Mangen say directly or indirectly or imply that he considered the Office of Economics to be "a pain in the neck" because of their incessant requests for information and corrections of studies put out by the Bureau of Natural Gas?

A. I can't say that I've ever heard him say that. If he did, it's his own opinion. He can say—I suppose he's free to say what he wants to say.

Q. Did you ever hear Mr. Albares say anything to that effect?

A. Not that I can recall. . . . But, again, this whole line of inquiry—

Q. It's simple. It's motivation, Mr. Joyce—motivation leading to the action taken by Mr. Mangen, which we all know he took.

A. Well—you're, you're asking me then, to make statements which can be construed to attribute motivation, and I just can't, ah—I just can't tell you what's in people's mind, what their motives are.

Q. We're not asking you what's in people's minds, we're not asking you what people's motives are. We're just telling you why we're asking these questions about the feeling in your Bureau as to the Office of Economics. Leave it to other people to draw the inferences.

A. Yes, you—that's precisely what you will do is to leave it to other people to draw the inferences, and that's the reason that I make to you the clear and unequivocal statement that *my* view and the view that I have tried to encourage is a view of cooperation.

Q. I've heard that, and I applaud you for having that opinion and believing that. It's certainly the way it should be done. As Bureau Chief of the Bureau of Natural Gas, have you heard directly or indirectly about the feeling of any other staff members in the bureau concerning the Office of Economics as being a "pain in the neck" because of their incessant requests and corrections of BNG studies?

A. I think that's an unfair question, and only as it can effect the operation—the inter-office operation, can I respond to you. I have tried to assure that regardless of what anybody might say or feel personally that this does not affect the relationship within our operation.

Q. Do you refuse to answer that question?

A. . . . (long pause to 974) No, no.

Q. Do you understand?

A. Will you please articulate it again (laughs) so that I can make sure?

Q. Isn't it a common feeling in the Bureau of Natural Gas that the Office of Economics is "a pain in the neck?"

A. . . . Now, how do you define a "common feeling?"

Q. Are you aware of any view, any people, within the office, within the Bureau of Natural Gas, to the effect that the Office of Economics is a constant bother in terms of requests for information, corrections of work done by the Bureau of Natural Gas?

A. I'm not aware of any *specific*—you framed your question in rather a specific manner—and I am not aware of any such specific articulated feeling. I ah—do feel, or I have . . . heard expressions that people are concerned about the extra work that is required of them, but as Bureau Chief I have tried to carry out a major effort to not let that affect the work of the Bureau. I cannot change people's opinions or view points, but I can try to change their work efforts.

Q. Now, who did you get these expressions from—was Mr. Mangen one of those persons?

A. I would not want to attribute anything to him directly like that. I just cannot point to a specific issue and I don't want to make him a particular case in point.

Q. But, you said you heard expressions. Now, probe your mind and state for the record, who you heard these expressions from?

A. I think that's an unfair question, again, to ask me to—on my own statement being a responsible officer, to put these people—if I could think of somebody, to single them out and make them the subject of some sort of special concern or treatment.

Q. Mr. Joyce, we're investigating a very serious matter, and I'm asking you in the course of that investigation to identify the persons whom you heard indicate that the Office of Economics is bothersome because it creates additional work for them. Now, you testified you heard expressions to that effect, and please either answer my question or state that you refuse to answer it.

A. Well, I don't want to—leave this, this, this type of inquiry in such terms as you've articulated it here, because you leave me with only the choice of saying you're trying to withhold something, and I don't—I can't single out people, that, say that this fellow said something or other or that I can recall that he said something or other. I think it's, a, I think this is a very, just not an appropriate question for me to answer.

Q. Do you decline to answer it therefore for that reason?

A. Yes.

Q. Was Mr. Mangen one of the persons who you heard such an expression from?

A. Well—are you going to then go down the whole list of employees and ask of each one?

Q. I don't know. It depends on how you answer the first one.

A. I suppose to head off going down a list of some three hundred people, I would have to answer "no" to that one, but, again, you just put me in a different way in a position of saying this. I think—let me answer your question this way: that people who have assigned tasks and are asked to undertake other work are concerned about it. They have their priority assignments and the work that they think is their responsibility and for which they are held cognizant, and of course there is a resentment in taking away their time. I just cannot, I would prefer not to go through the roster of people and specify, because I just couldn't—did this one say something or that one, and I'm afraid I'm impugning them, treating them unfairly.

Q. What's the answer to the question regarding Mr. Mangen, or do you refuse to answer.

A. Would you—would you state the question again, please?

Q. Was Mr. Mangen one of the ones you heard such an expression from?

A. Expression?

Q. You said you heard an expression—you "heard expressions" from people in the Bureau of Natural Gas to the effect that the Office of Economics creates additional work for them and is therefore "bothersome"—was Mr. Mangen one of the people whom you heard such an expression from?

A. Well, . . . I think that he did indicate that this was a lot more work for him and he had other work to do. But the term "bothersome"—again, your choice of words leads to inferences.

Q. Well, what did he say—you can tell me the words, you've heard him.

A. Well, I perhaps have, but I can't recall them, but it would just—I suspect, something to the effect that "This is a lot more work and we have other jobs that have to be done."

Q. What are you referring to, "This is a lot more work," you mean the concentration ratios?

A. Well, I don't know that specifically or whether it might be something else. We get the same thing, not just from the Office of Economics, you understand, but within our own Bureau and the different division within the bureau. We call upon one bureau, or one division, to supply information to another.

Q. Has the Office of Economics complained to you that people are not cooperating with them?

A. I would suspect there have probably been complaints.

Q. To you?

A. I would suspect so. I don't recall the specifics of them. But, as I pointed out to you, I tried to rectify them.

Q. What actions did you take to try and rectify it?

A. To assure cooperation.

Q. Well how did you do it?—did you have a staff meeting and direct them to cooperate, or what—send a memorandum or instruction, pep talk, rally?

A. No. I operate through the division chiefs; the division chiefs are my subordinates and I think they understand my viewpoint in regard to cooperation with all the offices.

Q. Did you ever have specific occasion to say specifically that you wanted them to cooperate with the Office of Economics because the office had complained about lack of cooperation?

A. I don't believe I ever reached a point where I said that specifically in those terms.

Q. Have you ever reached a point where you said you wished the Office of Economics would do something positive and not sharpshoot at other bureaus' work?

A. "Sharpshoot" is not a term that I would want to use. I doubt that I said that.

Q. Have you ever heard it said Mr. Mangen?

A. Not that I can recall.

Q. By Mr. Albares?

A. I don't believe so.

Q. By Mr. Zabel?

A. No.

Q. Did Mr. Mangen ever tell you in words or substance that he was going to destroy the documents or that he did direct the documents to be destroyed because of the Office of Economics?

A. No.

Q. Did Mr. Albares ever tell you that was the reason the documents were destroyed?

A. No.

Q. Did Mr. Zabel?

A. No.

Q. . . . Documents in our records show that the Office of Economics' first request for concentration data to be supplied was on February 27, 1973. Did you know that prior to my telling it to you?

A. Your telling me right now?

Q. Yes.

A. Yes.

Q. You did know that?

A. Yes. I read it in the report of the investigation. It was included in the report of the investigation.

Q. Did you know that before you read it in the report of the investigation?

A. No. . . .

Q. The Office of Economics didn't get the data until March 21. Do you know why it took from February 27 until March 21 to get it?

A. No. . . .

Q. When you read the report of the investigation, you learned of the lag or lapse in time between the time of request and the time of furnishing it, did you make any inquiries concerning the lag?

A. No.

Q. Were you concerned that your instructions for cooperation were not being carried out?

A. No . . . [long pause to 1185].

Q. In order for you as Bureau Chief to be kept informed of what's going on in the Bureau of Natural Gas, are there any kind of weekly or monthly reports of activities prepared?

A. Yes.

Q. What kind?

A. I get monthly reports of the status of cases . . . division reports.

Q. Do you read reports you get?

A. To some extent. That is, some of them are more critical than others, some of them are department . . .

Q. You said you get reports of cases. Do you get any reports of reserve studies, and special reports set forth respecting the status of reserve studies?

Well . . . I don't know in what context you're talking about reserve studies. If you're talking about the National Gas Survey Reserve Study, of course that was a continuing effort, and there were not specific status reports on that although there was quite close surveillance on all of that activity. I'm not sure that that's what you mean.

Q. Is there something called "the national supply team?"

A. . . . I don't think we have that in our table of organization. That doesn't . . . I'm sorry, it may be . . .

Q. Do you know any kind of reports that are prepared by Mr. Mangen?

A. Well . . . he works on . . . or is involved in various types of reports. . . .

Q. Let me show you documents titled "National Supply Team," dated 9 April, 1973, and ask you to describe for the record what kind of report that is.

A. . . . This is a—a . . .

Q. You'll notice on the bottom, it's signed by Mr. Mangen.

A. . . . This is . . . I would assume, a section report of the staff assignments and the work assignments and the status of these.

Q. Who does Mr. Mangen supply this to, to you?

A. No, this is not supplied to me.

Q. Who does it go to, do you know?

A. No.

Q. Does it go outside the Bureau of Natural Gas?

A. Not to my knowledge.

Q. Does it go to the Executive Director of the Office of Economics?

A. Not so far as I know.

Q. Well, if it doesn't go outside and it doesn't go to you, and it's prepared by Mr. Mangen, who does that leave available for it to go to?

A. Mr. Albares, or the Chief of the Assistant Operation Division.

Q. Who is that?

A. Mr. Cornelius.

Q. How about Mr. Zarevsky, could he get it?

A. . . . Ah . . . possibly, because it also includes an area of his responsibility under National Gas Survey. Yes, he might get a copy of it.

Q. Is this prepared so that one of those persons would be aware of the status of these reserve studies?

A. Well, again, I would assume that this is prepared as an aid in keeping track of the work assignments of people and the status of their projects they're working on in the section. This involves, I believe, as I see it here, the names involved are just the people in the gas supply section and then under this, a subdivision of this particular team . . . [long pause to 1278]. . . .

Q. Are you aware of any reason that Mr. Mangen might delay to March 21 to comply with the February 27 request of the Office of Economics for the data?

A. I believe I already answered that question, only phrased in a different way. I have no reason to believe, to think otherwise than that that task was completed in a most expeditious manner. I have no reason to believe that there would have been any delay.

Q. Do you think a period of between February 27 and March 21 is a reasonable period of time to comply with the Office of Economics request?

A. If that's what it took, yes.

Q. I guess the key question, then, is to find out how long it took, because you don't know how long it took, and I guess, at this point, we don't know how long it took either . . .

Q. Did you find out that information concerning the award for Mr. Mangen?

A. Yes . . . On May 18, under our awards procedures, the Bureau of Natural Gas—and that's over my signature—recommended a superior performance award for Mr. Mangen as an individual award. The—so that's the answer to your first question. Yes, he was to receive an individual award.

The award was \$350 cash for sustaining performance.

Third question, Has he received it? No, he has not.

Fourth question, If not, why not? The awarding of this is being held pending any action, if there is any, under the regulations of the Civil Service Commission or the Federal Power Commission that might involve any disciplinary action or an investigation of the handling of the material.

Q. You're sure he hasn't gotten that award since it was withheld from him?

A. That's the information I got at 1:15 today.

Q. Who did you get it from?

A. Mr. Maxson.

Q. Are you aware of any investigation by the criminal division of the Department of Justice into the attempted destruction of these documents?

A. No, I'm not aware of any.

Q. We'll take a five minute recess . . . Thank you very much, Mr. Joyce. We have no further questions at this time. Is there anything you would like to add to your statement for the record?

A. I don't believe so, thank you.

Q. All right. The time is now approximately 3:25 P.M. and because this is a preliminary Subcommittee investigation and because the identity of all interviewees is not yet fully determined, and because the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are requested not to discuss the substance of this interview with anyone other than your own personal attorney. Thank you.

A. Thank you.

THIRD INTERVIEW WITH TOM JOYCE, OCTOBER 4, 1973

Q. Mr. Joyce, this will be our third interview in an effort to fully explore the circumstances surrounding the attempted destruction of certain documents in R-405. Before I commence, let me undertake to clear up two preliminary matters. One, I would like to identify the persons present for the record. Obviously, yourself, Bernie Nash, myself, Assistant Counsel, Charles Bangert, General Counsel, both of the Antitrust and Monopoly Subcommittee, and Thomas Sussman, Assistant Counsel with the Administrative Practice and Procedure Subcommittee, of the Committee on the Judiciary. The reason for Mr. Sussman's presence is that the respective chairmen of the two subcommittees identified will be holding joint hearings on the facts and circumstances surrounding the attempted destruction of documents and the hearings will be chaired by Senator Kennedy. Therefore, Mr. Sussman is representing both Senator Kennedy and the Administrative Practice Subcommittee. And my second point is I'd like to show you and remind you and ask you to read and indicate for the record whether you agree to being here today. I'm showing you the statement you signed which advises you of your rights and your agreement to participate with us.

A. Thank you. With the same stipulation I'd indicated before. The elimination of the waiver clause, yes I agree with this. And I had indicated before.

Q. You say by elimination of the waiver clause you mean by deleting the three words "waive them and" on the last two lines of the statement?

A. I believe that's correct, yes.

Q. Do you wish to have counsel present with you?

A. No, not today.

Q. Since your last interview, Mr. Joyce, several items of information have come to the attention of the Subcommittee staff, as you know or you may not know, hearings have been scheduled for October 16 and 17 in this matter and it is staff's intention to circulate to the Senators on the Subcommittee copies of prior interviews and factual abstracts therefrom. It is our intention to bring all of the facts fully to the attention of the members and in light of information obtained subsequent to your statement we are here today to make sure that through inadvertence, important testimony has not been left out in your first two interviews. It is our intention to try to complete the gap today and certainly intend to bring the latest and most complete aspects of your testimony to the attention of the senators. Are you still employed by the FPC?

A. No, I am not.

Q. Can you tell us when you left?

A. I left, I believe my last day of employment was August 31. It was on the weekend. I don't know exactly how you would classify the last day. It was the end of August.

Q. Can you state for the record who your present employer is?

A. I am self-employed, in that I am consulting. I do have a consulting contract with an engineering and consulting firm to examine some business development opportunities for them in the environmental and general energy field.

Q. Can you identify the firm?

A. Yes. It is NUS Service, Inc.

Q. Is that an independent company or an affiliate or subsidiary of another company.

A. That is an independent company. To my knowledge, it is an independent company. They are not an affiliate or an associate of any company.

Q. To your knowledge, are they in any way connected with any oil or gas producing companies.

A. Oil or gas producing—not to my knowledge.

Q. Oil or gas pipeline companies.

A. I may save some considerable time. I think I know, if I may presume your line of inquiry. One of the Class B stockholders, Brown and Root Corp, which of course has a, is a subsidiary, I believe, of Halbert, Inc., and therefore is in many fields of endeavor—pipeline construction, power line construction and so forth. To my knowledge, of course, there may be stockholders who have other interests that I am not aware of, but to my knowledge that's the extent of it.

Q. Does Texas Eastern Transmission Company fit into this entity in any way.

A. Not to my knowledge. I have no idea what any relationship might be with Texas Eastern. Well, as far as I know there's none with—.

Q. When did you decide to leave the Commission.

A. Oh, sometime this summer, I suppose. I can't give you a specific date. Sometime in August or July.

Q. When did you apprise the Chairman of your decision to leave.

A. I believe, August 8 or some such time as that.

Q. Was that the first time you indicated to the Chairman you intention to leave the Commission.

A. Not the first time I had indicated a desire to leave. That was the first time that I had indicated a clear intention.

Q. When did you first indicate to him your desire to leave.

A. Oh, I don't know, I discussed that sometime with him previously, several weeks previously.

Q. Several weeks previous to August 8.

A. Yes.

Q. Could it have been several months.

A. I don't believe so.

Q. What prompted your decision to leave on or about August 8.

A. Well, the principle reason that I wanted to try to wind up my affairs and be available to go ahead with this consulting contract as soon as possible early in September because the organization was anxious to move ahead with their examination of this field and they had indicated that they would have to get a decision pretty soon, so I had to make a decision to go ahead.

Q. You indicated you are self employed and you have a consulting contract with NUS. Is that right.

A. Yes.

Q. When you determined to leave the Commission, did you have a concrete agreement from NUS for this consulting contract.

A. Not a concrete agreement, no.

Q. What kind of an arrangement did you have?

A. Well, I had understood that they wanted somebody to do this, and if I were available and could be available, then I would undertake it for them. . . . I'm sorry, would you rephrase your question? I may have not listened closely enough and I want to be precise in my answer.

Q. I'm not sure of the precise words I used.

A. Well—

Q. But the answer covered the purport of the question, so—

A. Well, I do want to make it clear to you that I had had an indication from them prior to the time I left the Commission, but after the time I'd indicated to the Chairman that I had proposed to leave.

Q. Yes. How much earlier in point of time than did you commence discussions with NUS for possible arrangements for employment with them?

A. Several months—general discussions as to the possibility of interest, and what my future plans were, in the same way we've discussed that these are always continuing discussions with people on their future plans.

Q. Would you consider NUS to be a pipeline company?

A. No.

Q. Prior to your decision to go with NUS, did you have discussions with pipeline companies concerning possible future employment?

A. I had a very peripheral discussion with a pipeline company about my future plans and nothing ever came of that. I'm not sure they really understood that I was considering leaving.

Q. You indicated that several months prior to August 8, you commenced discussions with NUS. Were those discussions commenced prior to your first two interviews here?

A. . . . I believe so, yes. . . .

Q. Do you know any particular reason why your employment discussions with NUS were not disclosed at the time of your first two interviews with Mr. Bangert and myself?

A. No. No particular reason. I just hadn't really realized that I hadn't discussed them. No particular reason. I think, if I may recall the line of inquiry, it had to do with pipeline companies and gas companies, and I don't consider them in either category.

Q. To what extent would you attribute your decision to leave to the circumstances surrounding the destruction of documents in docket R-405—is that in any way related to your decision to depart from the Commission?

A. I think we've been using the term "attempted," but, I would be less than candid to say it didn't weigh in my decision, although it certainly wasn't the determining factor because this has been something that's been a concern to me, and I've always faced this problem of having to, sometime—I know it's not a career position, and I was always faced with the question of when this might come and this seemed to be an opportune occasion to join a group that I thought was dynamic and growing and could make use of my capabilities. I served four years, and to me, at least, it was a very demanding and trying job, and I'm hoping to find something that won't be so demanding of my time.

Q. Precisely what kind of a study are you undertaking to perform for NUS?

A. Well, let me ask a question of you. I have no hesitation at all in answering this, but it does have to do with their own business operation and what their competitive plans are. If I might, I'd be very glad to phrase it in general terms, but I don't want to compromise what their—

Q. We would not want NUS to be adversely affected competitively, and only if you wish to answer the question in general terms. If you hesitate to answer in general terms, please do not.

A. Well, I think I can tell you the same thing as people to whom I've talked. NUS has a very strong capability and background in the nuclear engineering field, and they feel that they would like to expand this same type of activity into the fossil fuel fields, and I'm working out what opportunities there might be for them in these fields and how they might go about acquiring business in the broad spectrum of the energy field—coal, oil, natural gas, fuel, thermal—the whole spectrum.

Q. From what types of companies would they acquire business in fossil fuels—would that be producers of fuels?

A. It could be producers of fuels, pipelines, distributors, engineering companies that might subcontract—the whole of the spectrum of business enterprise.

Q. You indicated just a moment ago that the circumstances surrounding the attempted destruction of documents in R-405 did contribute to your decision to presently leave the Commission. Can you indicate to us why that contributed to your decision to leave? Do you consider that it reflected adversely upon your performance or the performance of your office?

A. Well, as I explained to you before, and I explained in all candor, and I really am serious about it, I felt a very great responsibility for anything that reflects on me, on the Commission or the staff—my staff or any part of the staff. And I felt that with this responsibility, I should just give the Commission and everybody the freedom to choose who they wanted to run the organization, and not have to—just to give them that freedom.

Q. Well, if Mr. Mangen carried out the act, why do you feel responsibility for it?

A. Again, in all candor, I feel that there certainly the argument could be made that I—through my subordinates, Mr. Mangen and me—and you understand, there are two or three layers of supervision—that I—the argument certainly could be made that I should have done a better job of supervision and direction. And I could argue extenuating circumstances, the press of time, manpower and other things, but I just—that's not adequate for me, for myself.

Q. Did the Chairman indicate that he believed you should have done a better job of direction and supervision?

A. No.

Q. Did he indicate he felt you had responsibility for Mr. Mangen's actions?

A. No.

Q. What was the Chairman's reaction to your informing him of your decision to leave?

A. He wished me well. He expressed his regret that I was leaving and indicated to me personally that I had performed in a good manuer and that I had performed a good public service.

Q. Did he ask you not to leave?

A. He understood that I had made the decision on my own and he respected that decision. He said that he did not—certainly did not *want* me to leave and in no way should I construe it as a desire on his part for me to leave, but if I had made the decision, he would respect the decision.

Q. That was on August 8?

A. No, I believe that was some time after that because he was out of the office—he was on vacation for some time.

Q. Do you recall when you told the Chairman of your decision to leave at the end of September—you left at—when did you leave? the end of August?

A. The end of August, yes.

Q. When did you tell the Chairman that you were leaving?

A. I sent him a letter on August 8. . . . I believe it was the 8th. I'm sorry, I don't know the precise date.

Q. Before the attempted destruction of the documents by Mr. Mangen, did you ever give, receive, or hear instructions given with respect to whether documents can or should be destroyed within the Federal Power Commission?

A. Yes.

I can now, yes, because again, I think I understand the line of inquiry. After an inquiry by Mr. Maxson as to a review of all documents that might bear on the handling of information, I reviewed my records and found in my chronological file a memorandum—a copy of a memorandum on the handling of information: "Proposed Procedures for the Handling of Information" in one of the earlier cases. And I had received copy of that, as was noted on the memorandum, and I obviously had received that copy of the procedure.

Q. When did you find this?

A. Again, I can't tell you the precise date. It was the latter part of August.

Q. What prompted you to make a search at that point in time, which allowed you to find it?

A. I—again, bear with me as to the precision of my memory, but I believe it was a memorandum from Mr. Maxson indicating that an inquiry had been made by the Subcommittee of *all* documents relating to the handling of information, and he directed that a search be made of *all* files for all documents that could be construed as bearing on the handling of information.

Q. How old was the memorandum that you found?

A. I believe it was dated sometime in 1970.

Q. Who was it from?

A. I believe it was from Mr. Albares and Mr. Mangen.

Q. A memorandum *from* Mr. Albares and Mr. Mangen?

A. I believe so, but I'm—

Q. To whom was it addressed?

A. Mr. Wakefield.'

Q. Do you have a copy of that memorandum with you?

A. No, I do not.

Q. Can you recite the substance or the contents of the memorandum?

A. No, not really, except that it was a proposed procedure for the handling of information—some of the information, I can't recall what it referred to, in Docket 69-1.

Q. Is 69-1 the Southern Louisiana case?

A. And, it was—a proposed procedure for the gathering of the information, and I just don't—as I recall, it was a *proposed* procedure, and I don't know what the disposition of it—whether it was finally adopted or not.

Q. Do you consider that memorandum to contain *general* instructions for the use and disposition of documents in the Federal Power Commission, or was it limited to AR69-1?

A. No, it was specifically for that case, as I recall.

Q. Did it contain provisions in it allowing for the destruction of documents?

A. Yes, it made reference to that, I believe.

Q. So that the only recollection you have today with regard to any instructions you have ever given, received, or heard about prior to the destruction attempt by Mr. Mangen, with regard to the use and disposition of FPC documents?

A. That is?

Q. Is that the only one that you recall?

A. To the best of my knowledge it is, yes.

Q. Were you present when Mr. Mangen received instructions with regard to how he should conduct himself concerning the 79 questionnaires?

A. Now,—

Q. Before the attempted destruction, do you recall telling Mr. Mangen how to handle the 79 questionnaires or were you present when any one else instructed Mr. Mangen how to handle the 79 questionnaires?

A. I don't believe so.

Q. Do you recall being present when Mr. Abares gave instructions to Mr. Mangen respecting whether he can use or dispose of the 79 questionnaires?

A. No, I don't think so.

Q. Do you recall being present when Mr. Maxson gave instructions to Mr. Mangen regarding his conduct concerning the 79 documents?

A. No, I don't recall any meeting.

Q. . . . Let me show you a memorandum dated June 29, 1970, addressed to Stephen Wakefield from Edward Albares and ask you if that is the document you just referred to, which you discovered in late August concerning knowledge you had about destruction of FPC documents. . . . We'll mark that Joyce Exhibit A.

A. Yes. That's the document.

Q. Prior to the attempted destruction of the R-405 documents by Mr. Mangen, did you have any inkling whatsoever that the questionnaires returned by any or all of the 79 companies, were going to be destroyed by Mr. Mangen?

A. Excuse me. When you say "inkling" I presume you mean any knowledge. No, I had no indication.

Q. Did you have any reason to suspect that Mr. Mangen was going to do that?

A. No.

Q. Did Mr. Mangen ever indicate to you that he *might* destroy the documents?

A. No. Not to the best of my knowledge.

Q. Did Mr. Mangen ever ask you whether it would be appropriate to dispose of the documents?

A. . . . Well, as he—as I explained to you before, he did indicate to me at one time that he had returned one of the sets of documents to one of the companies.

Q. That was after he returned it he indicated it to you?

A. Yes.

Q. But apart from that, prior to his attempted destruction of the documents, did he ever indicate to you or ask you what you thought about disposing of the documents?

A. Not except that, as to returning them to the companies.

Q. Returning all of them to the companies, or returning the one he returned, after the fact?

A. Well, I think that the one that he indicated was the one that was returned, but I think that he might have returned others, too.

Q. Prior to his informing you of the fact that he returned one, and I believe that's the Humble, is that right?

A. I believe so.

Q. Prior to his informing you that he returned the Humble questionnaire, did he ever ask you or indicate to you that he might return the questionnaires to the companies?

A. Yes.

Q. He did?

A. Yes. At least, that they would be available for return.

Q. What did he tell you?

A. I don't recall that I made any particular comment.

Q. Certainly you're not suggesting you stood there mute?

A. No, but I didn't, as I recall, object to returning the documents.

Q. Did you allow Mr. Mangen to leave your office with the impression that it would be appropriate to return the documents to the companies?

A. He might well have, yes.

Q. Was it your intention to let him leave your office with that impression?

A. I had no intention one way or the other, but I did not attempt to deny it or to point out otherwise.

Q. When you were in charge of the Bureau of Natural Gas, you were the boss. Did he tell you or did he ask you whether it was permissible to do it?

A. No, I believe he said that he had returned them and that there might be others that would be returned.

Q. Now you're changing your statement. You testified that he asked you before he returned any of them. Thing about it again?

A. No. To the best of my knowledge, the occasion for this was that the one set of documents had been returned, and in the course of the discussion there was an

indication that other companies might pick theirs up also, and I did not dissuade him from that.

Q. Before he told you that he returned the documents to Humble, before that occasion, did he ever ask you or indicate to you that he was going to return documents to the companies?

A. . . . Not that I can recall.

Q. So it's your statement that before he informed you that in fact Humble had received their documents back, he neither told you that he was going to return documents nor did he ask you for your opinion respecting whether he should return documents. Is that correct?

A. To the best of my knowledge, yes.

Q. When he left your office after advising you that he returned the documents to Humble, did you allow him to leave your office with the belief that it would be appropriate to return the balance of the documents to the companies?

A. I expect that might be a fairly drawn inference, yes.

Q. Was it your intention to permit him to return the balance of the documents to the companies?

A. I did not raise an objection to it.

Q. By not raising an objection to it, did you intend to permit him to return the documents to the companies?

A. Yes.

Q. At what point in time did Mr. Mangen inform you that he returned one of the documents to Humble?

A. I don't remember when that was . . . You realize, of course, that while these documents themselves would have been returned, that they were available for recall at any time, under the Commission's power to require the return of them and the availability of any documents, and we did have the information from those documents . . . on the take-off sheets.

Q. Was the document to Humble returned upon an express condition that it be retained for Commission recall?

A. I don't know.

Q. In fact, didn't Humble decline to return the document at the request and several efforts had to be made by the Federal Power Commission to obtain the document back from Humble?

A. I don't think there were several efforts. I called and they returned it after a number of days. They, as I understand it, had to get it back from their Houston office, and there were some personal problems with the person conveying it, but it was not a long, difficult thing to get it back.

Q. Why did Mr. Mangen come into your office and advise you that he had returned one document to Humble and he might be returning the balance to the other companies?

A. We were discussing the preparation of these breakdowns of the four, eight, and twenty largest companies—that was the March document or whenever it was—and the information to do that, and he indicated that he had returned the documents to Humble but he had the information to prepare those and indeed, did prepare them.

Q. And you were preparing the four, eight, and twenty concentration ratios for whom at that time?

A. For the Office of Economics.

Q. Did Mr. Mangen at that point in time indicate that one positive reason for returning the documents would be to preclude further access to them by the Office of Economics?

A. No.

Q. Did he indicate that it would preclude further requests from the Office of Economics, which were taking a lot of his time?

A. Not to my knowledge, no.

Q. Did he ever express to you that repeated requests from the Office of Economics were becoming quite bothersome to him?

A. Well, we've discussed that before, and I've tried to explain to you that the general problem or the general concern that people have in doing their own work—people were quite busy. And there are always problems and demands upon your time for work that does not relate to your specific areas of responsibility, and, so I—I'm sure that there were concerns expressed that this was taking away from the other immediate pressing jobs, but we did try to supply the information.

Q. Is it correct that meeting with Mr. Mangen at which he made you aware of his act and his future intent took place also after the first request from Senator Hart for information to be derived from the 79 responses?

A. I don't know. I'm sorry. I just cannot remember the chronology of events, the time sequence involved. I don't know.

Q. Senator Hart's letter, as I recall, was dated March 7. . . . Given that date, is correct that your meeting with Mr. Mangen with reference to returning the documents took place after receipt of the letter from Senator Hart?

A. . . . I just don't know. . . .

Q. Is it correct that at that meeting with Mr. Mangen, Mr. Mangen made reference to returning the documents as one way of avoiding providing the information to Senator Hart?

A. No.

Q. Why would Mr. Mangen advise you that he might be returning the documents to the company, but not advise you that he might instead destroy them?

A. I don't know.

Q. Did he indicate to you that rather than return them as the companies requested, he would dispose of them for the companies to save the bother of transmitting it back?

A. No.

Q. Did he indicate to you that he might destroy it if the company requested him to destroy it, rather than send it back?

A. . . . I don't believe so.

Q. What's the difference in your mind between returning it to the company or destroying it for the company?

A. Oh! The companies have to have available their records to the Commission under the Natural Gas Act, and those records can be recalled or reviewed at any time.

Q. But, if Mr. Mangen destroyed the documents, the same information would be available to the companies, would it not?

A. Yes. But it would have to be—unless they had retained a copy of it, they would have to reword the information and put it back together.

Q. I don't know of any companies that would send an agency a document and not retain a copy of it—do you?

A. No. I would think it would be a very standard practice for them to retain a copy of the materials.

Q. You're aware of the terms of the order that the—issued by the Commission, that documents shall be maintained in a confidential manner, are you not?

A. Well, I believe—I'm subject to correction, but I believe the precise wording was "the information shall be retained."

Q. Given that order, why did you allow Mr. Mangen to depart your office with the understanding that it was permissible to return the documents to the companies?

A. Because my understanding was that we had the information on our take off sheets.

Q. Given that understanding, had Mr. Mangen asked you whether it was all right to destroy it, why would you have told him it would not be all right to destroy it.

A. I wasn't asked that question.

Q. If you were asked that question, would you have told him it was permissible to destroy or impermissible.

A. I don't know. I don't know. I've thought about that myself. In light of subsequent events, I don't know.

Q. Mr. Sussman has a question to ask you in this area. What would be the purpose of returning documents to a company if you had the take out information so it wouldn't be depriving the Commission of any information and if a company had copies of the documents so that they didn't need physical possession of the information.

A. The only thing would be a matter of administration, the storage of documents and the susceptibility to their inadvertent disclosure by somebody of confidential information. If you have the combined information, the compiled information, it's much more easy to maintain security of that information, than with the extensive files.

Q. How large were these documents submitted by the companies. Were they extensive for each company.

A. No. The total stack of documents was so big, I believe. Something like this.

Q. Less than a file drawer.

A. Oh, yes. Yes.

Q. Were you in the Natural Gas Bureau during the original R-405 survey.

A. Yes.

Q. After that survey was completed and the documents digested and take offs or off takes taken by Commission employees, were those documents returned to the companies.

A. I don't know.

Q. Wouldn't you know as head of that bureau?

A. No. Not in that instance because the responsibility for the original R-405 investigation was with the investigating officers and the Office of General Counsel.

Q. Were those documents ever given to your bureau at any time during that investigation.

A. I cannot give you an unequivocal answer to that because we provided technical assistance to the investigating officer, the attorneys who were gathering the information, technical assistance in the interpretation and the analysis of these and I do not know if, indeed, we had physical possession of those or not.

Q. Do you have any knowledge of the ultimate handling of those documents in the original survey, as to whether they were maintained, destroyed or returned to the companies.

A. No.

Q. In your experience in the BNG, in any investigation of rulemaking and ratemaking where information was obtained from companies outside the Commission were the documents containing that information returned to the companies after the investigation or after the rulemaking.

A. Yes.

Q. That was the regular practice.

A. Quite often occurred, yes.

Q. Did you consider that consistent with the order concerning the retention of documents by the FPC.

A. Retention of documents?

Q. Well, retention of information, I think you just referred to . . .

A. Yes.

Q. It was consistent to return that information.

A. Yes.

Q. During your time in the BNG did you ever have experience or to your knowledge were any documents destroyed that had been submitted to the Commission.

A. Well, again I think you have to define what kind of documents and perhaps I—there was some misunderstanding before in response to that question. Obviously, there are many documents that are just paper—superfluous paper, there are documents classified documents which are circulated to the FPC that are handled under the classified information system. To my knowledge, I never saw any physically destroyed, but I am sure under the classification system, certainly whatever the procedures are for handling that, that somebody may well have disposed of some documents there.

Q. Do you know if Humble requested the return of their documents.

A. I believe they did. It is my understanding that they did.

Q. After Mr. Mangen advised you of his action with regard to Humble and his intent with regard to the other documents, did you advise any of your superiors of the possibility of documents being sent back to companies or being destroyed.

A. No.

Q. Did you tell the General Counsel the possibility of that occurring.

A. To the best of my knowledge, no.

Q. Did you tell the Chairman.

A. No.

Q. Commissioner Moody.

A. Well, now, let's get the time sequence of events. Yes, I did inform the Chairman of this after the letter from Senator Hart. That is the second letter from Senator Hart, yes.

Q. After the second letter from Senator Hart what did you advise the Chairman.

A. I advised the Chairman that I was aware that the documents had been, the reports had been returned to Humble.

Q. Did you also advise him at that time that you were aware that Mr. Mangen indicated he might return the balance to the companies.

A. I don't know. I can't recall that I did or did not.

Q. What was the Chairman's reaction to your statement.

A. That I should get them back.

Q. From Humble.

A. Yes. To complete the record.

Q. In what context did Mr. Mangen advise you of his action with regard to Humble's document and his intent with regard to the balance of the documents.

A. Well, as I say, it came up in the course of discussion in the preparation of these concentration ratios. And he had the take-off documents, and he did indicate that he had returned to the Hum—I believe that Humble had requested the documents and he had returned them.

Q. Was the occasion after Haskell Wald spoke to you and asked you to direct Mr. Mangen to provide the concentration ratios, previously requested by Mr. Kofkin and Mr. Wilson.

A. Again, I don't know whether that was. As a matter of fact, I don't really recall the occasion of Dr. Wald raising this question. The time when that occurred. I am sure that there were exchanges as I indicated before of a desire to get the information and I just can't remember the sequence of events.

Q. Well, think pretty hard. At this meeting was this the first time you told Mangen he better get the concentration ratios together and give to the OE.

A. I don't know. I don't know if that was the first time or not.

Q. When he came in did he have any concentration ratios prepared at all.

A. I really don't remember.

Q. What kind of discussion did you have with him with respect to concentration ratios.

A. Well, as best as I can recall, he said he'd been asked to prepare these and should he do it, and I indicated that he should prepare them and then we transmitted them to them again on the basis of the memorandum you have in your records. These will be considered administratively confidential.

Q. So now you're saying that was the occasion upon which Mr. Mangen asked you whether he should prepare concentration ratios for the—

A. No, I am sorry if you relate those two. And I just can't do it. I can't remember whether there was one occasion. These were not meetings, these were discussions.

Q. At that discussion, he asked you did he not whether he should prepare concentration ratios for the OE.

A. At some meeting, and I just don't know whether it was the same meeting or not. Whether the subject of the return of these documents to Humble came up or not. I don't know.

Q. How soon after that meeting did you receive the completed concentration ratios for transmittal.

A. Well, if I can establish in my own mind when this meeting occurred. I think we could establish that from the date of the memorandum transmittal but I just don't know what the time sequence was.

Q. After you finally got the completed concentration ratios, did you immediately transmit them to the office of economics or did you hold them for days or weeks for review.

A. I don't think there was any substantial delay in transmitting them. I believe there was some discussion about whether or not these were administratively confidential or not but I don't believe there was any undue delay.

Q. Who did you have that discussion with.

A. With Mr. Mangen.

Q. Did it last for more than a day. Did it take place over several days.

A. I can't recall how long it took, not an inordinate amount of time. Again, if I may answer your question, or perhaps presuppose a question and answer it as correctly as I can. I did not delay the transmittal of this concentration ratio report. I did not consciously delay the transmittal of it. If I can say that as directly as I can.

Q. Well, does that mean you transmitted it within a day or two after you received it from Mr. Mangen.

A. I may not even have been in town. There may have been other reasons, I don't know.

Q. We have your leave record. You were in town.

A. All right. You have more than I have then. I'm sorry I don't have my leave record. If you're trying to establish did I sit on this report.

Q. Yes, that is what I'd like to know.

A. And I did not.

Q. Does that mean . . .

A. I had no reason to sit on it.

Q. Is it correct that before Mr. Mangen undertook to prepare the concentration ratios for the OE, he asked your opinion as to whether that should be done or not.

A. My best recollection would be that before he undertook it, he did ask me, yes. I would think that he would ask me about that. Again, he might have begun some of the work, I don't know. He probably did ask me.

Q. Did Mr. Alberes ever inform you that he told Mr. Mangen to check with you before he either returned documents to companies or destroyed them.

A. Not to the best of my recollection, no.

Q. Did Mr. Mangen ever tell you that Mr. Alberes told Mr. Mangen to check with you before he either destroy documents or return them to companies.

A. Not that I can recall.

Q. Do you have any reason to believe that Mr. Alberes indicated to Mr. Mangen to check with you before Mangen destroyed or returned documents to companies.

A. I don't have any reason to believe that. I believe that would be a reasonable procedure.

Q. Do you have any knowledge as to whether Mr. Mangen informed Mr. Alberes of his intention to destroy or return the documents to companies.

A. Let me phrase that two ways so that we don't get confused. Prior to the initiation of this whole discourse and discussion; that is, which I'll, if I might choose as the point when Senator Hart's second letter was received, to the best of my knowledge, I have no such information. I don't know if subsequent to that, of course, again, let me speak to you in all candor and I think you'll understand why I say this, but once the situation became apparent and the Chairman instituted an investigation, I, for my own reasons, just as much as I could, totally withdrew from any contact with anybody. This was partially on the admonition to avoid any possible problems on your admonition to not discuss things. Unless you just totally withdraw, it is difficult to turn people off.

Q. Are you referring to the admonition as our request that you not discuss the substance of our discussions on the record with other people.

A. Yes. And the easiest way for me to do this was to totally withdraw from participation and discussions or investigations. Nevertheless, in the conduct of other business; we had continuing business which involved all of the parties involved here, and I can't recall anytime that any of this type of discussion that you talk about might have come up. But it may well have come up at that time. It wasn't a specific request on my part, certainly. But if there were a passing remark, I just don't remember. And I have gone through a rather rambling long discourse by way of explanation which didn't really explain much, but I do want you to understand why I tried to take a position of total withdrawal from these discussions so that I would not be drawn into improper discussions.

Q. So you are saying that you have no knowledge that Mr. Mangen was told by Mr. Alberes to check this matter out with you. Is that right.

A. To the best of my knowledge, no. Not that I can recall.

Q. Do you consider Mr. Mangen's action of attempt to destroy the documents to be a fair carrying out interpretation of your indication to him that it would be all right to return them to the companies.

A. No, I can't construe it that far because if we didn't have the documents, the information in some form either on the take off sheets or something, we would have no way, no continuing record to show at all. So, even though we would have the—not information against which to check—so I don't couldn't go from one to the other, no.

Q. Well, had he not tried to destroy the work sheets but merely destroy the documents, you know the 79 questionnaires, do you consider that a fair interpretation and carrying out of your indication that it would be permissible to return the documents to the companies.

A. No, I—

Q. Well, what's the difference between destroying them and returning them to the companies.

A. Well, just that we can get back the same documents.

Q. Actually, don't you consider yourself responsible for Mr. Mangen's actions?

A. Oh, I say, I consider a heavy burden of responsibility in that I should have exercised better supervision.

Q. Didn't you inform the Chairman of your belief that the responsibility lies with you for Mr. Mangen's actions.

A. Yes the responsibility for everything in the bureau lies with me, yes.

Q. Didn't the Chairman indicate to you that it would be intolerable for the FPC or you to indicate to this subcommittee that you considered yourself responsible for Mr. Mangen's action.

A. No.

Q. What was the substance of the response the Chairman made to you respecting the extent to which you should admit responsibility for the act.

A. There was never any request for an expression of his part as to what my responsibility should be. I think that the lines of responsibility are in administrative terms are pretty clearly drawn, and I feel that it was my responsibility and I should have exercised better direction, better supervision to have avoided this sort of circumstance.

Q. Did you state or indicate to anyone within the BNG your desire to share the responsibility and burden with Mr. Mangen for the action he took.

A. I do not feel that I could walk away from a responsibility that I had to all of my employees. I could not in good conscious say that this is something that is totally your responsibility. I felt that I had to assume the responsibility and this has been a very heavy burden for me.

Q. And isn't one of the things that's been torturing you since this took place is the reluctance of the Chairman to allow you to accept responsibility for this action.

A. No.

Q. Have you ever expressed to anyone within the BNG your concern with the fact that the Chairman doesn't want a person as high a rank as you are within the FPC to become involved in sharing responsibility for this action.

A. Absolutely not. No.

Q. Did you indicate that to persons other than employees within the BNG.

A. Absolutely not.

Q. What action have you taken, before you left the FPC, to either have disciplinary action taken against Mr. Mangen or prevent disciplinary action taken against Mr. Mangen for his actions.

A. I took no action myself. The Executive Director has, had at that time, and I don't know what the disposition of it is, had indicated to Mr. Mangen he would have an opportunity to show reasons for his actions and that he might be subject to disciplinary action. I was asked whether I would approve or disapprove of that action. Let me make sure that I say this precisely. I felt, personally, very deeply, you will excuse me if I get emotional about somewhat—it is very emotional to me, I felt very much concerned that Mr. Mangen, who I regarded, not only as a dedicated and loyal employee, but a good man, not a friend necessarily, but at least a good working companion, should have to bear this sort of responsibility. I was asked if I would oppose the submission, the sending of this letter to him indicating that he might be subject to disciplinary action. I said I do not oppose.

Q. Why did you not oppose it if you felt you shared responsibility with him.

A. Because I just couldn't oppose it

Q. Why couldn't you oppose it. You disagree with it.

A. Well, I share the responsibility, yes, in the sense that I should have exercised better leadership or better direction, better control.

Q. Did you approve of what Mr. Mangen did.

A. No.

Q. Do you believe he should be disciplined for what he did?

A. I believe there may well be extenuating circumstances, that might arise in the course of the examination. I think that a man who has shown many years of good service and if he made a mistake, if he makes one mistake I think that punishment could be too harsh.

Q. Do you intend to intercede on his behalf in any disciplinary proceeding?

A. No.

Q. Do you believe extenuating circumstances existed?

A. I don't know. That was a matter for the investigation.

Q. Why don't you intercede in his behalf in any disciplinary proceeding if you were his boss?

A. I feel that I have said all that I can say to you and to Mr. Maxson. I have stated my feeling, in fact, I have stated, of course, just previous to that in recommending his award grant my feelings. And I have expressed them to those parties.

Q. Did you ever indicate to Mr. Mangen that if he were fired from the FPC that you would help him obtain employment?

A. No.

Q. Did you have any discussions with him regarding future employment for him?

A. No.

Q. Did you have any discussions regarding him joining you as a consultant to NUS?

A. No.

Q. Any discussions regarding his joining NUS?

A. No.

Q. Are you aware of any discussions he has had for outside employment since this took place?

A. No.

Q. We'll take a five minute recess.

Let me recover a couple of points briefly. And before I do that let me indicate to you the events we anticipate taking place at the hearings on the 16th. The witnesses will be sworn, they will testify under oath with full accountability for perjury. Presently on the record there are substantial discrepancies between the testimony of witnesses. If the same discrepancies exist at the hearings, it is anticipated that the subcommittee will agree to send the transcript of the subcommittee public hearing to the Department of Justice for review and of course the decision will be made by the DJ as to what action to take. The points I would like to recover with you for the final time and the reason that I am doing it is I would rather have it very clear on this record and not have surprises at the hearing for the senators if statements then get changed at the hearing, relates to the following. Did you at any time indicate to Haskell Wald that he is responsible, or his office is responsible, for all of your present problems?

A. Well, I don't know what you define as present problem, but——

Q. The problems respecting the investigations concerning document destruction.

A. No.

Q. Did you indicate any hard feeling that you had against Haskell Wald at the time you left the Commission?

A. To Mr. Wald.

Q. To Mr. Wald.

A. No, not hard feelings. I might recount for your information so that the record is complete and clear that Mr. Wald came to my office one day and said that he would like to have a confidential discussion with me. I can't recall the precise subject that he suggested but I believe he said something so that he might be able to avoid problems or work out problems in the future. I indicated my reticence to have a confidential discussion with Mr. Wald. I don't know if I indicated to him or but I would if appropriate that I thought that little could be gained in carrying out a discussion of and a relationship between the offices because I would no longer be in a position to be effective in their implementation, but let me say to you in all candor that I don't place blame on anybody, I don't really feel that anybody is responsible for problems, however you might characterize them, I will accept the fact that the OE was trying to do a job. If there were problems in obtaining information as I have indicated to you before, there were mechanisms to pursue this through the administrative procedure within the agency if they felt that they were not getting proper access to the information to go through the various steps. Certainly, I was not the last answer in the handling of information, but I would not want to leave with you the impression that I hold any grudge certainly to the extent of feeling that people were trying to persecute me or I'll have to accept what people were doing, what people do do in good faith that they think they are doing what is right and I might say that I have always felt that the same thing has applied to the people who worked in the BNG for me. I felt they always acted in good faith.

Q. Before Mr. Mangen came to you to ask whether to transmit to the OE four, eight and twenty concentration ratios from the 79 questionnaires, were you aware of the desire of the OE to have that material?

A. I don't know. I might have been. Again, as we have discussed before there are many times passing inquiries as to the availability of information and I cannot pinpoint an instance when someone, perhaps Dr. Wald might have asked me for this, I don't know, well I don't know somebody else might have or not, so I can't give you an equivocal answer to that.

Q. Did Dr. Wald ask you to have your office your bureau submit before April 20 concentration ratios to the OE?

A. I don't know just how the request was couched. Whether—I am sure he was involved in the discussion someplace. I think that we had recounted sometime previously that there was a discussion of supplying this information and I don't know if Dr. Wald was involved or not. Again, I—if he did, I feel that I personally and asked my people to respond in a reasonable straightforward manner to—

Q. When you say there was a discussion of transmitting this data, you mean a discussion with people outside of the BNG?

A. Well, the meeting that I have in mind was one in which we were discussing the strategy of a particular case and the material that would be presented and I frankly cannot remember whether this particular item was a matter of, one of the part of the material that would be prepared or not.

Q. Who did you have that strategy discussion with?

A. Staff counsel, representatives of the OE, representatives of the BNG, I believe the office of accounting and finance and I don't know if there were any other offices represented or not.

Q. And was that particular case the Belco rate proceeding?

A. Yes.

Q. Was that the proceeding for which the OE desired the concentration ratios?

A. I don't know. I don't know if that is the particular one they wanted that for or not.

Q. Are you saying to this date you do not know whether the information was sought by the OE for use in the Belco rate proceeding?

A. I don't know that that's specifically what it was sought for. I am not familiar enough with the record to remember whether that was put into the record or not. In the Belco case.

Q. Before Mr. Mangen came to you and discussed with you whether he should supply the concentration ratios to the OE, did you have prior knowledge of the desire of the OE to have some data to be derived from the 79 questionnaires?

A. Again, I think we discussed that before and I just—I can't remember the sequence of events.

Q. Do you have any recollection of Haskell Wald asking you for such data? Specifically?

A. The reason I hesitate again is it seems to me that on the occasion of a or just subsequent to a Commission meeting when we were both there that some mention was made of supplying this information. I am not really clear on that but it seems to me that it might have.

Q. By Haskell Wald?

A. Yes.

Q. Did you then communicate with Mr. Mangen to ask him the status of the matter?

A. I don't recall specifically that I did.

Q. Did Mr. Mangen then communicate with you, bring up the same matter?

A. I don't recall in that time frame.

Q. When Mr. Mangen told you that he had sent one questionnaire back to Humble, and at the same time when you discussed the 4, 8 and 20 concentration ratio request from the OE, was that subsequent to Mr. Wald referring to such a request after the Commission meeting you referred to?

A. I don't know. I don't remember.

Q. At the time Mr. Mangen discussed with you the possible return of the documents to the companies were you aware of the March 7 letter from Senator Hart seeking information to be derived from those questionnaires?

A. I might have been. I just don't remember what the date of the discussion was. Of course, I was aware of the letter soon after its receipt.

Q. Did you think return of the responses from companies would be inconsistent with the request of Senator Hart certain information to be derived therefrom?

A. No. I just didn't think about it in that context.

Q. Before Mr. Mangen advised you that he returned one document to Humble at that meeting, did you yourself have any contact with the representative of Humble or any other oil company respecting whether the responses of the oil companies would be returned or would be destroyed or would be retained by the Power Commission?

A. To the best of my knowledge, no.

Q. Did you hear any scuttlebutt around the bureau prior to the date that Mr. Mangen told you about it that documents were going to be returned or destroyed?

A. Not that I can recall, no.

Q. After Mr. Mangen told you that he returned one document to Humble and that he might return the balance to the other companies, did you relate that information to anybody else in the FPC. Not necessarily just your superiors, such as Mr. Alberes, Mr. Forquer or anybody else.

A. I can't recall anybody that I would have related that to.

Q. Did you discuss with Mr. Alberes what should be done with the documents.

A. No, I don't believe so.

Q. Did you have any conversations with any representatives of Humble before you had this discussion with Mr. Mangen at which R-405 documents were discussed.

A. In relation to that.

Q. In relation to R-405 in any way.

A. Not that I can recall, I may have but I just don't recall.

Q. Is it your testimony that prior to the actual attempt by Mr. Mangen to destroy the documents you had in your own mind neither knowledge nor belief that documents that the documents might be destroyed.

A. Yes.

Q. And is it correct that you had neither knowledge or any belief in your own mind that Mr. Mangen was desirous of taking action to prevent copies of the 79 responses from being transmitted to this subcommittee.

A. Could you restate that, that is a very important question and I want to answer—

Q. Did you have any reason to believe, or do you now have any reason to believe that Mr. Mangen's actions taken with regard to any or all of the 79 responses related to his desire that the questionnaires or responses should not be furnished to this subcommittee.

A. No, absolutely not.

Q. Did you then or have you now, any reason to believe that Mr. Mangen's actions were taken to prevent the use of such information by the OE.

A. No. We supplied the information to them. The composites. The concentrations.

Q. Why did Mr. Mangen attempt to destroy the documents.

A. You'll have to ask him that. I don't know why.

Q. In your own mind what is your belief as to the reasons for Mr. Mangen's action.

A. Let me, if I might, answer your question in a little more general terms as to the general problem of the handling of confidential information. It is my feeling that any information, whether it is supplied on a confidential basis to a single person who is solely responsible for that, if for any reason beyond his control or anything else or from some other avenue, some of this information should be revealed, then he could be the one who was indicated to be the one responsible for it and I would suspect that none of us like to be responsible for something any longer than we have to be, but I can't say what his reason was, what was in his mind.

Q. Have you had any discussions with him, trying to find out why he did what he did.

A. No. As I told you before, I perfectly avoided any discussions of this type so that I would not jeopardize any investigations or your examination or anything else.

Q. You said that before. You don't really believe that by trying to find out what happened, you would violate a request that we made not to tell anybody what we had been asking, do you?

A. Yes, I did. Yes, I took your request very literally. I haven't discussed anything with anyone.

Q. The record will show that a request no way related to your discussing anything with anybody. It very particularly related to not to repeat to other persons the substance of discussions held here. I have no further questions. I am sure Mr. Sussman has a few.

Q. Let me just follow one or two questions relating to the return of the document the questionnaire to Humble. You indicated did you not that you could not recall the subject of the R-405 survey coming up during a conversation between you and any representative or agent of Humble. Is that a statement of your response?

A. I believe that was my response, yes. I don't recall this, uh.

Q. Were there any conversations that you had with representatives of Humble during the period of time in question after the survey reports had come in and while they were being worked on or still in the possession of BNG were you had conversaitons with representatives of Humble and which the subject may have come up?

A. That would be between the period September of 1972 and sometime in—

Q. And the date in which your conversation with Mr. Bangert referred—

A. I can't recall any conversations where that would have been the subject of discussion.

Q. Even peripherally?

A. I don't know. I just don't recall specific discussions with anybody from Humble during that period although it may well have occurred.

Q. Did Mr. Mangen tell you why Humble had requested the documents be returned?

A. I don't believe so. I think he just said that they had asked to get them back.

Q. Did you at the time ask why they had asked to get them back or did you subsequently learn what had prompted their request for the return?

A. No. I don't believe I asked at the time and I don't know what might have prompted it.

Q. So, at this point in time you do not know why Humble may have requested from Mr. Mangen the return of their questionnaire?

A. No.

Q. During your time in the BNG, to your recollection, did the bureau ever refuse a request for information or resist in any way a request for information at the staff level made by the OE except for the R-405 documents?

A. I am not sure that there was a resistance at the staff level of the R-405 documents.

Q. Or any information derived for use. You indicated earlier today that if they were dissatisfied there were administrative channels they could take.

A. Yes.

Q. You didn't know whether they were dissatisfied or whether they were not dissatisfied during that period of time?

A. I have no indication that they felt it necessary to go to the Executive Director on the basis of any other part of the staff not giving them information. I had no indication of that.

Q. So then, rephrasing my question to include the R-405 survey, do you know or recollect any instances where the OE in the past had attempted to get information from the BNG and found any problem at all where it either had to appeal to the head of the BNG or to the Executive Director or the Commission to obtain that information.

A. Well, I suspect that you might choose to construe an appeal as being a request a passing request of me to see that some information was supplied. If it has been indicated Dr. Wald did request this of me, then I suspect it was and I think that I did reply in the affirmative that we would supply that information. I cannot recall any instance when they had to appeal through the administrative channels to the Executive Director to get any information.

Q. Can you recall any instances where you refused to turn over information to the OE?

A. No, I can't recall any. I don't know what would bring this about.

Q. Did you comply with request from the OE intermittently or when they arose for information or documents from your bureau?

A. Yes. Yes.

Q. Was any of the information that you turned over considered by you to be confidential?

A. Well, the concentration ratios that I transmitted to them indicated that these would be considered administratively confidential.

Q. In previous instances that you transmitted information indicating that it was administratively confidential.

A. There may have been it doesn't come to mind. Yes, I think one does come to mind and that was the procedures manual that we had adopted for estimating natural gas reserves. And this was for a time administratively confidential and I believe that they had copies of that. They assisted in the preparation of it. And I think they had copies of that, yes. And there may have been other occasions but I just don't recall what they are.

Q. In any of these occasions did the issue arise or did you have occasion to consider the question whether confidentiality to that attached to any manual, document or information prohibited or inhibited the transfer between agencies or units of the FPC of that information?

A. I don't think I considered that as a problem. I don't recall that coming to mind as a problem.

Q. Were you involved at any stage in decision making concerning whether the FPC should provide information to the FTC, relating to the natural gas reserves?

A. Well, let me ask the question of how this bears on the matter here under discussion of the handling of these documents in R-405.

Q. Well, let me back up a step. Were there any request from the FTC for information that would have included a request specifically or inferentially for R-405 documents?

A. I don't know how you might construe inferentially.

Q. Has any staff member saying do you have any information, can we get some information from you on natural gas reserves that you may have gotten either through an external survey or through your own—

A. There may have been staff inquiries. Well in fact there were staff inquiries for reserves in certain fields in Southern Louisiana, yes. And that was responded to by I believe the first instance by staff counsel or Office of General Counsel.

Q. Were you involved in fashioning that response? I am trying to get a feel for the handling of confidential information both within the agency and among federal agencies, to explain the thrust of this question. To see if R-405 was considered exceptional by you or members of your bureau or the Commission, or whether the handling of those materials follow the same course of handling other similar material.

A. Going back two or three years the FTC had asked for our technical assistance in getting information and evaluating different questions. And a procedure was set up at that time that we would try to help them the best we could within the limits of our manpower and that all inquiries should be directed through the Office of General Counsel. So this is the procedure I believe was in general use to handle the inquiries so as to get, rather than having a whole group of request coming in to different people which were uncoordinated, they would be handled that way. I believe that's the way they had been handled in general.

Q. Did that include congressional requests?

A. No. I don't believe so because I think many of the requests, congressional requests were directed directly to the Chairman.

Q. Were you asked for your opinion as to the timing or the substance of the response from the Commission to Senator Hart's request for information relating to R-405 or concentration?

A. I responded to the first letter. That was my response. The second letter reiterating the request for concentration ratios I was asked to have my staff prepare information for response to that.

Q. Did you at any time suggest that a responsive reply should not be sent to Senator Hart or that the information was inappropriate to be transmitted to a senate subcommittee?

A. No, I think that we've always strived to make the responses, the letters as responsive as we could within the constraints of the Commission's regulations and orders as they were then interpreted. Obviously the action of the subpoena of information. My interpretation of the confidentiality of these documents was incorrect.

Q. What was your interpretation of the confidentiality—?

A. That under the terms of the order they could be made available only on a composite basis.

Q. And that includes being made available to Congress?

A. Yes.

Q. And that includes being made available to the FTC?

A. Yes.

Q. Does that also include being made available to the OE?

A. That would be my interpretation yes. Because the investigating officer is responsible for the receipt and conduct of that information, but there are administrative procedures for the Commission releasing and making that information available to all the staff. As far as my bureau responsibilities and the staff of my bureau, yes. But that would have to be a Commission action to make that available.

Q. Would that same approach apply to requests or involvement in the General Counsel's office, as a separate unit of the FPC?

A. Yes. For the investigating officer to release that information, yes.

Q. At any time during the period of time between the first of the year in 1973 and May 21, was the information in R-405 supplied to the General Counsel's office?

A. I don't know. I don't know.

Q. Would you know if it had been?

A. Not necessarily.

Q. Another official who was subordinate to you in your bureau could have transmitted confidential information out of that bureau without your knowledge?

A. The investigating officer could, yes.

Q. He didn't need you permission?

A. No, not as I understand, no. Well, I just don't know whether he would need my permission or not. I would think he would not release it on his own recognizance.

Q. And you don't know what he did with that information with regard to other bureaus or units within the FPC? The investigating officer?

A. Except that it is my understanding that he did not convey it to any office in an unconsolidated or uncomposed form.

Q. To the best of your knowledge, and this may be repetitive briefly at some of the previous questioning but I want to try to fix times. When did Chairman Nassikas first learn of the attempted destruction of the documents relating to R-405 update?

A. On the Monday he received the letter from Senator Hart and I don't know what the date of that was. Sometime the latter part of May, I believe.

Q. May 21, I believe. Does that sound right to you?

A. May be.

Q. From whom did Chairman Nassikas learn of the attempted destruction of documents?

A. From me.

Q. What was his reaction when he learned an attempt had been made to destroy them?

A. Immediately instituted an investigation of the circumstances surrounding it, what had occurred, why it had occurred, and directed the Exec. Director to initiate this investigation immediately.

Q. At the time that you informed him and he ordered that investigation, during that conversation did you discuss with him Senator Hart's request for that information, for those documents?

A. Well, that was what precipitated the discussion when the letter was received I met with the Chairman to determine what sort of information could be conveyed and then I sought to have this information prepared, I discovered the documents had been destroyed so I thought at that time, and I then informed the Chairman.

Q. You went back to the Chairman's office to inform him?

A. Yes.

Q. Had he indicated prior to that time? Had the Chairman indicated when he first asked for your initial response to Senator Hart, that you should attempt to provide him with all the information or did he take the position that, uh?

A. He didn't at that time say what information to my knowledge, did not say what information could and could not be supplied, in regard to the request Senator Hart had made.

Q. Did he suggest that you should be responsive or did he intimate in any way a desire not to be responsive completely to Senator Hart's request?

A. No, my—Well, I don't know what the indication was, but it was my feeling he wanted to be as responsive as he could. To supply all the information that had been requested by Senator Hart, to the extent that we could under the Natural Gas Act and the restrictions that were placed on the information through that Act and the Commission's own order.

Q. Did he appear annoyed or angry or upset that the senate subcommittee on antitrust was attempting to obtain this information directly or was his attitude in anyway conveyed to you as being negative toward the senate subcommittee's inquiry?

A. I don't think that that's an appropriate question for me to answer; to interpret what his frame of mind was.

Q. Do you think that his frame of mind may have in any way conveyed to you or implied to you the course of action in terms of the response to Senator Hart's inquiry?

A. No. The only thing, the only response, the only reaction that I had was that I was trying to, the indication from him, to determine what information we had available in response to a series of inquiries and to begin to accumulate that information so that a judgment could be made as to whether or not it was legal, appropriate to then convey the information.

Q. And at that time he was, you are saying he was neutral as to the ultimate question of what information could be conveyed. He didn't in any way suggest that you should make maximum possible disclosure or minimum possible disclosure in interpreting what was not a clear mandate.

A. There was no indication to me. One way or the other.

Q. Did Chairman Nassikas appear defensive when he, in referring to Senator Hart's request—you asked me earlier for—why I am getting into this line of questioning and it seems to me that the Chairman's response to this request is directly relevant to his . . .

A. Again, you are placing me in a position—

Q. Suggesting to you, uh . . .

A. Trying to interpret what somebody's feelings are and I'm just not, uh . . .

Q. I'm not asking you about Chairman Nassikas' feelings, I'm asking whether he conveyed to you in words that he was outraged, angry that Senator Hart was attempting to embarrass the Commission to put the Commission in an uncomfortable spot, that Senator Hart was motivated by political feelings, that Senator Hart was attempting to get something on Nassikas or the Commission personally or institutionally or did he say specifically, without suggesting that you read motives, did he say anything relating to any of these matters to you?

A. I got no such impression from his response to me.

Q. Of his characterizing Senator Hart's purpose or motives in . . .

A. Again, I accept the Senator's request, the good faith effort to discharge his responsibility and try to deal with this effort.

Q. Did you discuss with any other member of the Commission the general issue of the destruction of documents and the responsibility for the destruction of documents or the matters leading up to or subsequent to your learning of the attempted document destruction?

A. The general matter was discussed with all of the Commissioners, yes, sir.

Q. At a Commission meeting, or did you discuss it with them individually?

A. It was an administrative meeting of the Commission.

Q. At that same meeting, did the subject of complying with Senator Hart's request come up?

A. I believe that that was involved in the meeting.

Q. Can you remember when that meeting was?

A. Yes, it was the same day.

Q. The same day after you spoke to Chairman Nassikas?

A. Yes.

Q. Was there any order that came out of that Commission or any mandate to you, formal or informal, out of the meeting as to what you should do next?

A. I do not consider it a mandate from the Commission, I felt it was my responsibility since that was a staff investigation, a staff report, which I was responsible for, that it would be my responsibility to determine that all of the information would be available and I undertook to complete that responsibility. There was no Commission order.

Q. To the best of your knowledge or information, did any other member of the Commission prior to the time of that meeting, know about the attempted document destruction, or prior to that day, May 21?

A. To the best of my knowledge, no.

Q. And just one last time, prior to that day, May 21, the question of document destruction or attempted destruction or desire to destroy any documents related to R-105 had not been raised to you, the rumor had reached you, you hadn't heard other conversations, no memo was filed, or in any other way did you become aware that there was a possibility, probability, or opportunity for destruction of those files?

A. To the best of my knowledge, no.

Q. Thank you Mr. Joyce, the interview will be concluded now. The time is approximately 12:35 p.m.

KOKFIN INTERVIEW, JUNE 18, 1973

Let the record reflect that this interview is being recorded. Present for the interview are Mr. Melvin Kofkin of the Federal Power Commission, Mr. Bernard Nash and Mr. Charles Bangert of the Senate Antitrust Monopoly Subcommittee. The time is now 3:35 and I am handing you a statement, Mr. Kofkin, which states the rights that you are entitled to and I believe you have had an opportunity to examine.

A. Yes, sir.

Q. And would ask if you agree with this, you would sign in the space.

A. This one here?

Q. Where it says "NAME," yes, sir.

A. May I have a copy of that for my record?

Q. Sure.

Before we start, let me just read Title 18, Section 1001 of the U.S. Code of Crimes and Criminal Procedures:

"Whoever in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up any trick, scheme, device or material fact, or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both."

Q. Now, Mr. Kofkin, we will ask you a series of questions. Many of them have been asked of all previous persons whom we have interviewed. We want you to understand that there is no basis of accusation or innuendo or pre-judgment intended. It is only a means of eliciting information from all witnesses in obtaining background information to evaluate all of the circumstances involved.

Now, would you please state for the record your complete name and address?

A. Melvin Kofkin, 9601 Sutherland Road, Silver Spring, Maryland.

Q. And would you detail your present position and the length of service you have been in that position?

A. I am an economist with the Office of Economics, Federal Power Commission. I've been there just short of two years.

Q. And who is your superior?

A. Dr. John Wilson is my immediate superior.

Q. Now, could you detail a little bit the relationship with the Office of Economics has with other divisions or offices within the Federal Power Commission.

A. To the best of my understanding the Office of Economics is an independent branch of the Commission, whose proper function is to support to other branches and analysis of economic matters.

Q. What are your responsibilities in your present position?

A. I'm with the Division of Economic Studies, and with that office, I prepare analyses of various economic subjects relating to electric power generation and natural gas. I assist in preparation of testimony for people who testify, preparation of statistical and numerical data, analysis of various questions of economic content.

Q. Could you detail briefly the previous positions, jobs, employers, which you have had prior to coming with the Federal Power Commission?

A. Surely, sir. I was with the Bureau of the Census for about four years as an electrical engineer. Prior to that, I taught mathematics in junior high school briefly, and I worked with various engineering jobs for a total, I guess, of about fifteen years. If you'd like more detail

Q. Were any of these previous employments that you had other than those you've mentioned with any member of the oil and gas industry?

A. No, sir.

Q. Were they with anyone who represents the oil and gas industry?

A. Not to my knowledge, sir.

Q. In addition to compensation which you receive from the Federal Power Commission, do you have any other source of income such as stocks, bonds, holdings, etc.?

A. I have three and one-half shares of AT&T stock (laughs). That is the extent of any outside securities that I may hold.

Q. Do you have any vested or unvested pension rights, insurance plans, retirement benefits, or other financial arrangements arising out of previous employment or from sources other than your own personal financing?

A. No, sir.

Q. Do you have any relatives working in or for or representing in any capacity the oil and gas industry?

A. Not to my knowledge, sir.

Q. Have you ever received any honorariums, gratuities, transportation, gifts, or any other thing of value, more than ten dollars in value from oil or gas companies or their officials or representatives?

A. No, sir, I have not.

Q. Have you at this time or prior to coming into this room had any discussions either formally or informally with regard to future employment with the oil or gas industry?

A. No, sir, I have not.

Q. Have you discussed your appearance here with anyone prior to entering this room?

A. Only in the most general terms, sir.

Q. Will you please relate the substance of these discussions, with whom they were, and when they were?

A. My wife knows I'm appearing. My supervisors, of course. One or two of the people at work know I'm appearing, but they're not aware, as far as I know, of the substance of the appearance.

Q. Now, when you indicated your supervisors, who were they?

A. Drs. Wilson, Schwartz, and Wald are all aware of my appearance. I believe they are all aware of the content of the discussion that we assume will pursue. I have not discussed in any detail what I would say.

Q. You have not discussed either with Dr. Wilson, Schwartz, or Wald, what you will say during this interview.

A. That's right, sir. They're aware, of course, of the general circumstances surrounding it, but I have specifically not gone into any detail with them.

Q. Have any of them suggested in any manner that you alter or limit your testimony before us?

A. No, sir, I was told to be open.

Q. Have you discussed, or had discussed with you, anything respecting reporting back to anyone of what transpires during the course of this interview?

A. No, sir. Nobody has asked me to report back anything.

Q. Has anyone in any manner placed any constraints upon either what you may tell us here today or what documents you may bring us in response to our request to bring certain documents.

A. Yes, sir. I am under a constraint by a memorandum handed to me through the office of the Executive Director, Mr. Maxson, signed by Mr. Forquer—this is the memorandum.

Q. Let the record show that this is a memorandum to the Executive Director from the General Counsel. Subject: Answers to Inquiries with Respect to the Commission Business; Dated June 14, 1973; Signed by Leo E. Forquer.

Q. How did you come to receive this memorandum.

A. This was sent to me by Dr. Wilson.

Q. Dr. Wilson?

A. Dr. Wilson.

Q. Now, did Dr. Wilson at all enlarge upon anything contained in that memorandum?

A. He merely indicated that there was some material collected under confidentiality and that the material is still confidential and should not be passed on. Any other material other than that contained in confidential material I, of course, am free and will pass on to the Committee.

Q. And, I take it, what we're talking about here, Mr. Kofkin, is the material that had been submitted by 79 companies with respect to docket number R-405, is that correct?

A. That and any derivative material thereof.

Q. That and any derivative material?

Would you, for the record, identify what material you may have in your possession which you feel comes under that order?

A. I have a worksheet entitled "Largest Producers: Proved Natural Gas Reserves for Sale," which is stamped "Administratively Confidential," which details the amount of these un—I'm sorry, the amount of available reserves by the four and eight largest producers in varying areas of the United States. Now this is a direct compilation, to the best of my knowledge, from the set of replies received to the memorandum order R-405.

I also have a worksheet which I prepared labeled "Concentration Ratios: Largest Producers' Proved Natural Gas Reserves Available for Sale," which is, again, a direct derivative of that material.

And the memorandum dated April 6, 1973, from myself to "Chief, Division of Economic Studies"—that would be Dr. Wilson: "Concentration Ratios: Large Producers' Proved Natural Gas Reserves Available for Sale."

And lastly, I have a Table of Concentration Ratios: Largest Producers, Proven Natural Gas Reserves Available for Sale, which is merely a recompilation of the first worksheet that I prepared, and as far as I know at the moment, that is the only material I have in my possession that I cannot give the Committee.

Q. Now, with regard to these four items that you have mentioned, is there in that material the identity of any of the 79 companies responding?

A. No, sir. The specific identity of each of these companies is not indicated. I personally do not have enough information available to determine if anybody could or could not derive the identity of individual companies from that material. It is, of course, quite possible that they could.

I have a memorandum in my possession dated March 21, 1973, from: Chief, Bureau of Natural Gas—that's Mr. Thomas Joyce—indicating that the material is to be considered confidential.

Q. Let the record show that this is memorandum dated March 21, 1973; to Chief, Office of Economics; from Chief, Bureau of Natural Gas; Subject: Uncommitted Reserves, Docket number R-405?

Q. Aside from the four items which you have indicated you were under constraint to maintain in a confidential manner, do you have other materials which you have brought with you referring or relating to the use or disposition of documents involved in the alleged attempted destruction?

A. I wonder if I could ask you, please, to break that down a little further? I didn't catch the import of the question.

Q. All right. You were asked to originally to bring with you writings of any nature whatsoever, including diaries, logs, and records of conversations referring or relating to the use and disposition of the documents involved in the alleged attempted destruction?

A. Yes, sir.

Q. My question is, do you have those documents with you at this time?

A. Yes, sir.

Q. Are you prepared to turn those over to us?

A. Yes, sir.

Q. All right. Perhaps the easiest way to do that would be if for the record you would read an identification of those documents and then we will label them as Kofkin Exhibits.

A. I have some notes to myself which I have made subsequently to others which I have thus supplied (?)—just notations from my own testimony.

Q. Could we have that also?

A. Fine with me. The first one is dated—I'm sorry, is titled: "Time Sequence: Gas Reserves," dated 6-8-73, 6-15-73, 6-19-73. In other words they were prepared recently. I could apply this in answering questions.

Q. That will be marked as Kofkin Exhibit One. We will have that photostated and return the original to you, if that's satisfactory.

A. Now, I have a deposition here which I gave which I cannot turn over because it incorporates completely some of the documents which I'm under constraint not to turn over. I must sincerely pass that one over.

Q. Would you please tell us who the deposition was given to and the date?

A. Deposition dated June 14, 1973, given at the Federal Power Commission to Mr. Leo Forquer, General Counsel of the Commission, and Webb T. Maxson, Executive Director.

Q. How many pages is that?

A. 25, sir.

Q. And the recording service, is that Columbia?

And was that statement taken in connection with Mr. Maxson's investigation of the alleged destruction of documents?

A. I would presume so, sir.

Next I have the memorandum dated March 21, from Mr. Joyce of the Bureau of Natural Gas, which I think you—

Q. We will duplicate them and return them.

A. Would you like me to identify them for the record?

Q. Well, why don't you give them to me one at a time and then we can get the identification?

The Joyce memorandum dated March 21 will be received as Kofkin Exhibit Two.

A. A note on Federal Power Commission stationery from H. P. W., which is Hester P. Wald.

Q. This will be marked as Kofkin Exhibit Three.

A. Well, I have a public document issued by the Federal Power Commission which I'm certain you must be familiar with.

Q. This is the news release dated February 22, 1973, the FPC staff release's report on Uncommitted Reserves—we do have a copy of that.

A. I have another document which, I'm sorry, I'm not able to turn over. It is a series of corrections written to me by Mr. Pavetto, verbally, which I wrote down—it involved the quantities of gas available in various areas (?)

Q. Who gave that to you?

A. Pavetto—P-A-V-E-T-T-O, of the Bureau of Natural Gas.

Q. This is the fifth document that you are withholding, is that right?

A. That's right. This is merely corrections of the original work sheet furnished by Mr. Mangen.

Q. Thank you.

A. I have a note undated, but which was dated by me, from Dr. Wilson—this was on February 27— instructing me to see him about the assignment.

Q. Kofkin Exhibit Four.

A. I have a note to myself on who I spoke with on February 27—the name Zabel is spelled incorrectly there—it should be "E-L."

A. As far as I can see, that's it—this is merely a copy of that, again, a public report.

Q. Now, with respect to Kofkin Exhibit Five, which you indicated was a note that you wrote to yourself regarding a conversation with a Mr. Vic Zabel, and which is dated June 27, 73. Was this note made contemporaneously with the conversation with Mr. Zabel?

A. It was made shortly after, but in moments after, as best I can recollect.

Q. Within moments after your conversation with Mr. Zabel? And this is your Kofkin Exhibit Five and it indicates that the data was confidential by terms of the original order and has been destroyed?

A. Now this—I must say that this note was written, of course, in haste, and I may not have the wording exactly correct, but the import of the statement, I believe, is correct.

Q. It was your understanding, and we will get into that a little more, it was your understanding from your conversation with Mr. Zabel, that as of Feb. 27, 1973, the data in question had been destroyed, is that right?

A. That is correct . . .

I also have a diary (end of Reel One, Side Two)

Q. All right, the next thing that you have to offer, Mr. Kofkin?

A. I have a diary, which I keep sporadically. The entries which are of interest are on April 2, 3, 4, June 8, and June 13. I'll tender it to you. I'll appreciate it if you restrict it to those pages, if at all possible.

Q. Yes, absolutely. If it's agreeable, what we'll do is copy *only* those pages which you've indicated.

A. The other date which might be of interest is February 27, but I have nothing involving this there. You may examine that if you like. As you see, the diary is sporadic. I do not have everything in there.

Q. April 2, 3, and 4, and June 8th, and 13th. All right, if it'll be satisfactory, we will copy only those pages referring to April 2, 3, and 4, and June 8 and 13 and mark them as exhibits—Exhibit Six. Now, were the entries made in this diary made contemporaneously with the subject being discussed in the diaries?

A. Generally they were written off that evening of the event or the next morning. Occasionally it was contemporaneous. In the case of the first three entries—April 2, 3, and 4, I believe they were written up each evening. The others—the 8th and 13th of June—I believe I wrote contemporaneously at some point during the day. If any part is not legible, I'll be glad—

Q. Could I ask you to read into the record the notations for June 8th and June 13th, if you would, please?

A. (Reads) "June 8—I have collected data (I think it should be "corrected" data) of four and eight largest producers. Mangen will provide corrected material." And then, I have some other information relating to other assignments. Shall I read those?

Q. No. That's not necessary.

A. Now, June 13 . . . I have some other material. "Mangen came up about ten o'clock. He wanted a copy of confidential paper he gave me. I spoke with J(ohn) W(ilson) who was arranging to get the material from H. W(al) to xerox." And that's the only information pertaining to this event.

Q. All right. We'll have those pages photostated and returned to you. Does this complete the documents which you brought with you to provide to the Subcommittee today?

A. Yes, sir.

Q. Could you advise us of the efforts that you made to comply with the request for documents? In other words, did you search files . . .

A. I have gone through my files and taken out the two files that concerned this particular assignment. I had broken it into two files, one dated 2/27, which is the first attempt by Dr. Wilson, the first assignment by Dr. Wilson—and the second one, dated 3/73, which would be the main portion of the assignment related to the computation concentration ratios. I, of course, brought my diary, other notes, which I have typed up and have as Exhibit one here, and as far as I know, this includes everything in my file and in my possession bearing on this particular event. If anything else should come up, I of course would furnish it immediately.

Q. Thank you. Now, as I understand it, you listed five items which while they may bear upon the subject matter, you are under constraint to furnish to the Subcommittee in accordance with the memorandum you received from the Executive Director's Office relative to confidential information?

A. I'm under constraint *not* to furnish it, sir.

Q. Would you please retain intact these five documents and whatever additional worksheets may be connected there, until the Subcommittee decides whether or not it will desire to proceed any further in that matter? I'm asking you not to destroy them.

A. Yes, sir. I will make sure of that.

Q. Now, could you please recall to the best of your ability the circumstances surrounding your attempts to procure information from the reports of the 79 large gas producers and docket number R-405 furnishing as best as you can the precise dates, times, etc.

A. May I proceed now with the form?

Q. Certainly.

A. I am using my exhibit one as an aid for my recall. On Feb. 27—all the days of this year—on February 27th, a Tuesday, I received the initial assignment from Dr. Wilson, which was in the form of a brief note—I don't know what exhibit number has been assigned—that's a xeroxed note with a red date—

Q. This is Kofkin Exhibit Four?

A. Right, sir.

Q. I'm showing you that document?

A. That's right.

O. All right.

A. In my conversation with Dr. Wilson, he indicated that he would like the concentration ratio involving the companies that had the—I should say, the four greatest and the eight greatest concentrations of natural gas reserves that were available for sale. The assignment essentially consisted of getting the total amount of gas for each of those groups and dividing that by the total amount available for sale, coming up with a number rating somewhere between some small number and one—one would indicate total concentration of whichever order was indicated. I started to call some people in the Bureau of Natural Gas. I reached one or two people—I don't remember their names, in general the normal way of starting this kind of a report would be to call the group responsible for the data and find out who handled the particular assignment and then sneak with them. Somehow, I ended up speaking to Mr. Zabel, who indicated that the data was confidential by terms of the original order collecting the data, and had been destroyed. I spoke with Dr. Wilson about it and related the extent of the conversation. I asked him if there was any further checking I could do. He said, "No, I'll handle it from here on in." This is of course a paraphrase of him.

Q. Let me interrupt at this point just long enough to ask you, if, as I understand, you previously indicated that it was at that point which you made this notation which we now have as Kofkin Exhibit Five.

A. That's right—I made that prior to speaking with Dr. Wilson, as best I can recall. . . . As my conversation ended with Mr. Zabel, I just scribbled a note and put it into my file—I occasionally do this to refresh me if things come up later.

I heard nothing further about this particular assignment—I was just in limbo, until about March 29, a Thursday. To the best of my knowledge, I didn't discuss it with anybody and being busy with other assignments, I just did not pursue it any further. At that time, I received some material—may I see the materials, please?—that note from Mr. Joyce, which is Exhibit Two—note from Mr. Wald, which is Exhibit Three—plus a work sheet from, I believe, Mr. Mangen—anyway the Exhibit from Mr. Joyce indicates it by Mr. Mangen of the four and eight company concentrations. Now, this is not the ratios, this is just the amount of natural gas reserves they had available for sale.

Q. Now, you received this material on or about March 29?

A. That is correct . . . I may have started workin on it the same day. I tend to think I must have started working on it the 29th. I was out Friday the 30th on sick leave all day. On Monday, April 2nd, I came back and I worked on the concentration ratios and I found some errors in the material furnished by the Bureau of Natural Gas on the amount of gas controlled by the four and eight biggest companies. Essentially, the amount of gas controlled by them just did not add up arithmetically compared with the published statement. There had apparently been an arithmetic error made in compilation of material.

Q. Now, one thing—do you have any information to know whether the arithmetic error had been made in the compilation of material or was in the press release on docket number R-405?

A. There's an area of doubt involved in that, if I may proceed. Perhaps it will clarify itself, if not I'll be glad to come back to it.

Q. All right.

A. I called Mr. Mangen in the late afternoon—this was Monday, April 2nd. I told him that I had some difficulties with material. I explained what the problem seemed to be. He indicated that he'd check into it and let me know. On Tuesday Morning, about 8:45, Mr. Mangen called me that the information would be corrected.

Q. Is this Tuesday, April 3?

A. April 3. I suggested to Mr. Mangen that I would come over to the GAO building, the General Accounting Office building to pick it up. At that time, the Office of Economics was at 1425 K Street and the Bureau of Natural Gas was over at the General Accounting Office on 4th and G. And rather than trust to the mail, I thought it would be wise to pick it up. I went in to Mr. Mangen's office, the general office area, about 3:30 in the afternoon. Somehow I ended up with Mr. Pavetto. He was in the outer office, near Mr. Mangen's office. And I told him the problem, and he gave me the directions verbally. He referred to a worksheet of some sort, and he read off the correct figures, which I then wrote down in longhand and went back to my office and corrected my sheet.

Q. Do you know what he was reading off of when he gave you the corrections?

A. No sir. I don't know. He indicated the problem had been that someone had picked up "cubic feet of gas" as if they were "thousands of cubic feet" of gas. It was a very simple, common type of error.

Q. I wonder if you could, to the best of your ability, recollect as precisely as you can, the conversation that you had with Mr. Pavetto that afternoon—what you said to him and what he said to you?

A. The best I can recollect, I identified myself. I mentioned that I was working on this particular assignment, he had the corrected material. He said something of the sort, "How do you want to work the corrections?" And I said, again, paraphrasing, I guess, "if you'll give them to me, I'll write them down if there's not too many," and I had indicated on my copy of the work sheet by circling numbers, which numbers I thought were in error, and he gave me his corrections, and they jibed. The ones I circled were the ones that truly were in error, and he then indicated that—I don't know if he said, "I did," or "Somebody did," but he indicated the problem was that cubic feet of gas had been picked up as if they were thousands of cubic feet of gas and the total become therefore larger than it should have been. And that was the extent of the conversation. I doubt if the thing took over two or three minutes.

Q. Did you see the worksheet he took these figures from?

A. I saw it to the degree that it was lying in front of him. I did not see it to be able to identify or see any specific numbers.

Q. Could you describe it in terms of general description—was it a lined piece of paper, what size was it?

A. Here I come into recollection which is very, very difficult, and I'm rather hazy. I'll be glad to furnish it, but I'm not at all certain of this.

Q. To the best of your recollection.

A. I think it was an accountant type pad—I guess about 11 x 14, or something of the sort. But this is very, very hazy, and I'm not at all certain whether this was the original of the sheet that he was working on, or whether this was just where he had jotted down some corrections, I honestly don't know. I just recall as being in my mind it sticks, an accountant type work sheet, a small size accounting type work sheet, that is really about as much as I could say.

Q. Did you have any reason to know one way or another whether or not on April 3rd, the reports themselves were still in existence?

A. I had no reason to ask, sir. I was told by Mr. Mangen that the correct figures would be furnished to me, Mr. Pavetto was furnishing them to me, and I just did not question it at all.

Q. All right, I'm sorry to have interrupted, now. Go ahead.

A. I believe I was up to April 3rd. I had just finished April 3rd. I went back to the office with the corrected figures, and then I worked on the concentration ratios again, with the corrected numbers. And once again, I ran up against some arithmetic inconsistencies. This time I traced them as best I could to the public document number 19013 in Reliability of Gas Service, to Tables I and III on—pages 8, 9, and 10.

Q. Pages 8, 9, and 10. What's the number on that?

A. That's number 19013. That's a news release dated February 22 of this year.

Q. Right.

A. And when I started getting ratios which just were not plausible—it sticks in my mind the ratios came out over "1". It just arithmetically could not be. And I proceeded it to check and I finally narrowed the errors down to some apparent arithmetic errors in Tables I and III, on pages 8 and 70. That's the "Total Large Producer Gas Reserves Available for Sale" and the "Associates (?) Natural Gas Reserves Available for Sale."

Q. Well, on page 8, where on page 8 did you find the . . .

A. OK. On page 8, about the second line of data, "Southern Louisiana On-Shore"

Q. Yes, sir.

A. As of 12/31/71, that's all the way over on the right . . .

Q. Yes, sir

A. I come up with a number of 607,794 as opposed to 572,157.

Q. 607,794

A. 607,794. Now, as I recall, by adding together the appropriate figures from Tables II and III, which should total the total amount, it didn't. I came up with this incorrect number. And there were a number of others of this sort. If you like, I can indicate which ones I believe are in error.

Q. All right.

A. On Table I "All Others" towards to bottom has "630 72" I have "81,626." The total "Lower 48" is incorrect. By adding the original figures, I get 3,343,845. Now, all of these corrections I'm getting, you must understand, are presumptions on my part as to where they arose. I had errors, and I just couldn't understand where the discrepancies came from. On Table III,

Q. This is on page 10.

A. "South Louisiana,"—that's the first line, where it says 279,776 I get 315,413. Now, as to exactly how these errors are, that South Louisiana should be a total of the On-Shore and Off-Shore right below it, and as you can see just by glancing at it, it is not. "Total Lower 48"—that's the third line from the bottom?

Q. Yes.

A. In both 12/31/71 and 6/30/72 are incorrect. "Total U.S." is again incorrect. Of course, once one figure's incorrect, all of the additions involving it would be incorrect. Now, these numbers, as you can see, are not really substantial errors, but they are substantial enough so that they threw off all my calculations, since these figures were the denominator of my concentration ratio. So when I came up with these inconsistencies, I went to see Mr. Mangen. I don't think I went particularly to see him. I think I was in the building for something else, and I just stopped by and saw him.

Q. In other words, this was

A. This was either the 4th or the 5th, either Wednesday or Thursday. Unfortunately, I do not have a diary entry on that. It's based on recollection deduction. It must have been before the 6th when my final memorandum was dated, because it usually takes about a day to prepare something of that sort. So, it had to be somewhere on one of those two days. So, I went to see Mr. Mangen

and I asked him about his figures. I said, "I presume they are simple arithmetic addition errors, but I would like to make certain" and at that point, he told me that it couldn't be checked, that the material had been turned over to the security people. He didn't clarify what he meant by the security people. I didn't ask, and—the time frame involved seems to be that last week, or something of that nature—they had been destroyed at some prior time, but in the relatively recent past.

Q. Well, that's what I wanted to ask you. Did he say the material had been turned over to the security people for *destruction* or just that it had been turned over to the security people.

A. I don't think he said to me *per se*, "It's been turned over to the security people for destruction." I believe in the context of the conversation we had, the phrase "turned over to the security people" became tantamount to being turned over for destruction. The essence of it was the material was not available and could not be made available, either because of its destruction or intended destruction. I *don't know* if he ever really made clear if it had been destroyed or would be destroyed, and at that point it really wasn't very important to me at that point. The basic problem to me was the material was not available and I had a time constraint on this particular assignment of finishing it by Friday.

Q. Well, did you at all indicate anything to him with respect to getting it back from security people?

A. No, I didn't. This is outside my field. Mr. Mangen was my basic point of contact in all of this, and when he said it was destroyed or about to be destroyed, I took him at face value, that it was no longer available. I went back to the office and I completed the calculations to the best of my ability, making certain assumptions, basically that the mistakes were addition errors. In a few cases, they affected the results. In most cases, they did not. I wrote a memorandum on April 6, to Dr. Wilson, indicating my findings and questioning him on the results of the—I'm sorry, the errors that were inherent in the results. And that was as far as my contact with Mr. Mangen went until, I believe, last week.

Q. Did you furnish us with a copy of that April 6th memorandum?

A. No, sir, I did not. That is one of those things which I'm under constraint not to furnish. It does contain some numbers, which I believe are limited to confidentiality.

Q. Well, not everybody felt constrained in the same way that you have, and I take it, this is all good faith among everybody. I'm not trying to indicate anything one way or another, but we do have a copy of that memorandum.

A. If I may just say one thing, sir, I am probably the lowest grade employee of anybody who's come here.

Q. Oh, absolutely!

A. And I feel that if anything is to be turned over, it should be by my superiors, and if they turn over, fine.

Q. Yes, I don't mean that at all in any critical manner whatsoever. All I am indicating is that we do have a copy of the memorandum. On . . . towards the bottom of that last page on that memorandum—let me ask you this first: Was that memorandum . . . that memorandum *was* written on April 6, 1973, is that correct?

A. Yes, either the night of April 5th or April 6th.

Q. So that was close to the time relation when you had talked to Mr. Mangen?

A. Oh, Yes. This memorandum was handed to Dr. Wilson on April 6th, as best as I can recall.

Q. And you indicated in that memorandum "Mr. Mangen has indicated that all records were destroyed last week"?

A. Yes.

Q. "And it is impossible to verify the source of error."

A. That's right.

Q. So, at least, in your mind, at that time, you believed that Mr. Mangen *had* indicated that the records were destroyed.

A. That's right, sir. . . . I drew no differentiation between—he didn't use the term "burn bag" or "throw it in the burn bag" or something similar. I just don't think I would have drawn any distinction.

Q. So that, we are not trying at all to put words in your mouth, but refreshing your memory with this April 6th memorandum, you must have at that time, at least thought that Mangen had told you the material was destroyed.

A. That's right. I believe that's the statement I made earlier when I was giving the narrative, that I believed the material had been destroyed.

Q. All right, I'm sorry to have interrupted.

A. At some time between April 9th and April 12th, I prepared a summarization of my concentration ratio material for Dr. Schwartz at his request. He wanted a briefer and more compact summary of the material. I prepared the material, but for some reason I did not give it to him. Now, I have my copy dated April 12, and I know it was typed by Mrs. Rencura (?), and I know that I had some corrections made. I can only presume that I was going to write a covering memorandum and somehow in the press of work, I did not give this to Dr. Schwartz. He never received this memorandum. The material was identical to that which was prepared for Dr. Wilson, the difference being merely in format presentation, but the basic material was the same. It required no further calculations. . . . Next event was on June 8th, when I was led to believe that Mr. Mangen—was led to believe that Mr. Mangen would furnish some corrected data for me to recompute my concentration ratios. Now, in thinking back upon the event, I may very well have connected Mr. Mangen and BNG as a single entity in my mind,—BNG being Bureau of Natural Gas. It may very well have been indicated to me that the Bureau of Natural Gas would furnish it, and I, in my mind, may have thought Mr. Mangen.

Q. What was this date?

A. June 8th. That was a Friday. My diary entry for that date indicates only that "Mangen will provide corrected material."

Q. How did you get that impression?

A. Well, in speaking with Dr. Wilson and with a Mr. Morrison in my office—Warren (?) Morrison, casually mentioned to me that—I think he said BNG will provide the data.

Q. Who is Mr. Morrison?

A. He's an assistant to Dr. Wald.

Q. What did you do at that point?

A. I haven't done anything. I haven't received the data. . . . On the 13th—June 13th, a Wednesday?—I found a note on my desk which was written by Mr. Mangen—or seemed to be—that he had called me to get a copy of the concentration ratio worksheet that I had given him earlier. I had given him one sometime in April, but it was a very poor copy of a xerox copy of xerox copy and it was basically illegible, and he came up and I gave him another copy (inaudible) the end of my dealings with this entire episode.

Q. Do you have that note from Mr. Mangen?

A. No, I don't.

Q. Let's go back to April 4 or 5, where you indicated that, as I understood, you saw Mr. Mangen, and indicated that you found some more inconsistencies and wanted more information, is that correct?

A. That's right. The inconsistencies were in the public document, not in the private one.

Q. The public document being the new release?

A. That's right. February 22, No. 19013.

Q. Now, when Mangen, to the best of your recollection, said something to the effect that either the material had been turned over to the security people, or the material had been turned over for destruction, is that correct?

A. My best recollection is that he said it had been turned over to the security people. I have the problem that he said "for destruction" or "has been destroyed."

Q. Well, once again, in line with your memorandum of April 6, at that time you were led to believe, at least, that it had been destroyed, is that right?

A. But for the purpose of filing an internal memorandum, I think—at that time it did not seem to me that the distinction was germane, to a non-lawyer, trying to record an episode for a supervisor. This really—I didn't think it made all that much difference.

Q. All right, back again to this conversation of April 4th or 5th. To the best of your recollection, did Mangen say anything with respect to *when* this material had been turned over to the security officer or whatever?

A. As I said earlier, the best recollection is some time within the last week. My recollection is that it wasn't yesterday, but it wasn't a month ago.

Q. So, the 4th or 5th would have been Wednesday or Thursday, and your impression was that this had perhaps been destroyed or turned over to the security officer sometime during the last week in March, is that correct?

A. That sounds valid.

Q. Did you at all indicate to Mr. Mangen that you had been advised that it had been destroyed before, when in fact it hadn't been?

A. No, sir, I did not. I just didn't question it at all. Again, there seemed to be nothing to be gained in the sense of getting into any difficulty with a co-worker. I've worked with . . . I presume I would have to work with Mr. Mangen again.

Q. I don't mean that critically at all. I'm just attempting to refresh your recollection as best as we can.

A. When I was told the material was destroyed the first time, and then I later received the material, I questioned in my own mind, of course, how something could be destroyed and suddenly be resurrected again, but I didn't feel it was my place at that time to question my supervisor providing me with the material and I proceeded to do the assignment to the best of my ability. All I could do was report each event as it occurred, in reasonable proximity to when it occurred, to my supervisor, as you notice in the memorandum, I did, and if he thought there were any reason to proceed further, I could only assume that he knew things in this regard that I did *not* know.

Q. Now, to the best of your knowledge, what is the chain of command at BNG—where does Zabel fit in, where does Pavetto fit in, where does Mangen fit in?

A. I honestly don't know. I believe Mr. Joyce is Head of the Bureau of Natural Gas. I believe Mr. Mangen is in an inferior position to him. I got the impression Mr. Pavetto worked with Mr. Mangen, but I have nothing concrete to put this on. Mr. Zabel, I do not know where he fits in to the picture. Again, this is the phone conversations were an informal matter. Generally, I would start off in most assignments, and I assume in this one also, by calling the secretary of a particular bureau or department involved in the assignment, found out who did the work. I would generally get to a supervisor, and he would in turn refer me to whatever person (inaudible), and I generally did not inquire into their particular position in the organization. It's not a very—the Commission isn't a very formal place, it just didn't seem appropriate. . . . You can see my lack of knowledge about Mr. Zabel by the fact that in my own note to myself I misspelled his name. It's the first time I've run up against such a name, and I've never run up against the man since.

Q. Do you have any idea who is authorized to order the destruction of the materials such as this that was in the Federal Power Commission?

A. I would have no idea whatsoever, sir. I prior to this had never known of any materials' being destroyed, because most of the material at the Commission becomes public record—Forms 1, Forms 2, and as a matter of fact, copies are generally kept in the Office of Public Information for people to look at. Most of the files we maintain are open, except some confidential matter which we keep in some separate files. As is common with most regulatory agencies, almost all of the materials come out of the public record.

Q. Well, going back to your conversation of February 27 with Mr. Zabel when he indicated that the material had been destroyed. In your own mind, did you wonder about who could have ordered that material destroyed?

A. My train of thought went as follows: and of course, it's only my own thought, and it's not based on anything written or otherwise: I can only give my concept of it—this material was different in substance from most of the other material handled by the Commission. It was matters which I guess might appear as proprietary or very personal information on the parts of the companies. I would guess that the knowledge of who has gas available for sale was a very important thing, how much is available for sale, could possibly be of great import for the company, for the competition. It did not seem at all unusual to me that after the material had been compiled and composited that it would be destroyed. It just did not seem all that unusual in spite of the fact that most material received by the Commission is of a public nature. At that time, I had not read the original order. I still have only read it very generally, I'm only familiar with it in very general terms. My concept still is the companies were promised the material would remain confidential and no companies' reserves would be identified, but from that point of view, I just did not feel that this was awry (?). If somebody had ordered the destruction for instance, of some company's statement that they submitted once a year to us on balance sheet, and so on, this would strike a chord in me, no question. My background is in engineering. I've on and off peripherally been involved in companies where there have been security measures. Destruction of documents is not at all unusual.

Q. Do you have any knowledge with respect to who did order the destruction of these documents?

A. None whatsoever.

Q. We appreciate very much your assistance here today, and we do feel that you have been a forthright witness and have been helpful. Is there anything that you would like to add to your statement at this time?

A. Nothing, sir, except I would be pleased to turn over whatever document I could, but I feel I'm under constraint, based on that memorandum I showed you, not to turn over those—I guess there must be four now, since you do have a copy of one of them. Otherwise, anything else I have, of course, I believe I've given you, and if anything else should come up, I will furnish it.

Q. I appreciate that. Because this is a preliminary Subcommittee investigation at this time, because the identity of all the interviewees is not yet fully determined, and because the Subcommittee has made no determination respecting the release and the manner of use of the substance of these interviews, you are respectfully requested not to discuss the substance of this interview with anyone other than your personal attorney. Thank you very much.

LAWRENCE MANGEN SECOND INTERVIEW, OCTOBER 4, 1973

Let the record reflect that this is an interview with Lawrence R. Mangen. The time is now approximately 10:05 a.m. Present are Mr. Mangen, Bernard Nash of the Senate Antitrust and Monopoly Subcommittee, Tom Sussman of the Senate Administrative Practice and Procedure Subcommittee and Charles Bangert of the Senate Antitrust Subcommittee. Mr. Mangen as you recall when you were interviewed on June 20, we gave you a form which stated your rights and I want to proffer you this form and ask you to read it again and indicate your agreement to be interviewed and to determine from you whether or not you wish to have an attorney present for this interview.

A. I agree under the same conditions we had in our previous interview.

Q. And you do not desire to have an attorney present?

A. No.

Q. Mr. Mangen, as I indicated to you before we went on the record the Antitrust Subcommittee and the Administrative Practice and Procedure Subcommittee will hold hearings on the attempted destruction of documents by employee or employees of the FPC. We have been conducting interviews with several parties on this matter. There have been some conflicts in testimony and we are endeavoring to clear up those conflicts at this time, to the best of our ability. When we do those formal hearings on the matter the witnesses appearing before the Subcommittees will be sworn and, of course, the penalties of perjury will attach thereto. So we are hopeful to resolve whatever conflicts there have been in the interviews prior to the time we go to hearings. And that's why we have asked you back today. Now one of the areas of discrepancy was the time at which you requested Mr. Carl Pavetto to prepare certain concentration figures for the OE and the amount of time which it took Mr. Pavetto to make this preparation. And I wonder if you would just review from your own memory and advise us to the best of your ability when you first asked Mr. Pavetto to make those computations.

A. The way I recall it I had a telephone call from—no, that was before. I had a phone call from Tom Joyce asking me to make these ratios. Now, I might have forgotten something, but this seems to me the way it was. I asked Carl to do it and the way I remember it didn't take him any more than about a day or so to do it. Like I say, I didn't check on him every minute to see what he was doing.

Now, if you could refresh my memory on the statement that's been made, I might be able to do better than that, but this has been some time.

Q. Well, as I recall, during your testimony the last time, you indicated that you believed it took approximately a week for Pavetto—¹

A. No. Well, if I said that, I don't think that it was right, because it didn't take a week.

Q. So, it's your understanding at this time that it took him approximately one day?

A. One day or a day and a half—something like that. It wasn't a very long period of time.

Q. Now, can you remember the approximate date when Mr. Pavetto did this work?

A. I can't remember the date at all. It was sometime after we issued the report on, I believe, February 22nd—I think that was the date. It was some time after that, but I don't know when it was.

¹ "I turned it over to Mr. Pavetto . . . And how long it took . . . I don't exactly recall, but I would imagine something like that would take at least a week,—maybe longer, for one man." *Mangen Interview I*, pp. 86-87.

Q. All right. And I think that from the last time, we did get general agreement from you and from other witnesses that the *initial* request from the Office of Economics was made on or about February 27. Is that correct?

A. That's correct.

Q. Is that your understanding?

A. That's my understanding, right.

Q. Now, can you recall how long of a period of time after the initial request was made until Mr. Joyce called you?

A. It was somewhere in the area of a week or two weeks, but I really can't recall for sure. That seems to me about the time period involved, but I was involved in a lot of other things at the time, and I don't recall these things exactly. . . . In fact, if you'd questioned me about some other aspects of some other work I was doing at the same time, I'd have given you the same kind of vague answers, because I don't keep a log on what I do, so there's no way for me to refresh my memory at this point.

Q. All right. Now, after Mr. Pavetto completed his work, what did you then do with those concentration figures?

A. Mr. Kofkin came to our office to pick them up. He wanted them as soon as he could get them, and so we gave them to him when he came to pick them up.

Q. Do you know how long you had them in your possession *before* he gave them to you?

A. Actually I never *had* them in my possession. We went to Carl and got them from him and they were handed directly to Mr. Kofkin, the way I remember it. I never really did anything but just glance at them and give them back to him.

Q. So Pavetto had them from the time that he began work on them until the time that he finally turned them over to the Office of Economics, is that correct?

A. Yes—the composite thing that he made up, yes. Now, the *documents* involved were returned to me at the end of each day and I locked them up.

Q. Now, are you saying that you never gave this—the calculations that Pavetto did—you never gave that to Tom Joyce?

A. . . . I just can't remember just exactly the procedure that we used. Some of these things have gotten mixed up in my mind . . . I'm trying to recall—I believe we sent—I know we sent a memo to OEC with an attachment on it—

Q. That was signed by Mr. Joyce?

A. Signed by Mr. Joyce, yes.

Q. And that Memo stated that "This does not violate the confidentiality of the order," is that right?

A. In Mr. Joyce's opinion, it did not, yes.

Q. Now, could Mr. Joyce have made that decision without having seen the material?

A. I believe he did see the material. I believe we sent—transmitted the thing—did we have two things that we gave to OEC or one? I can't recall—because I know we transmitted that thing and there was an attachment to that, and that was what they had requested. I can see the memo in front of me with the sheet on there, which was a fairly good-sized sheet, all worked out, which is what we gave to OEC. And I specifically asked Mr. Joyce to—to make that statement, whether or not he believed it, it was to protect myself. I wanted him to state for the record—that's the reason why I had him write the memo—that he believed it did not violate the confidentiality of the order.

Q. Well, are you telling me that Mr. Joyce wrote a memorandum saying that release of the material would not violate confidentiality of the order without having seen the material?

A. No, I'm sure Tom saw it, because it was attached to the memo that he signed—the work—the composite.

Q. Well, once again, I wish you would refresh your recollection on this subject, because it seems to me that you're telling me two things: (1) First of all, you're telling me that the material went directly from Pavetto to the Office of Economics; Now, you're telling me that perhaps the material went to Joyce also, and I'd like to determine exactly what was the order—

A. I think I've got it—I think I've got it. Now, what happened was—the way it went was, we wrote the memo, we attached and sent it and Mel called us—Kofkin—and said there were some *errors* in it, so he brought it back to us, and *then* we worked on it, and *then* he came over and picked it up. That's the way it happened. This was the second time we did this—in other words, he said to us there were some errors, he brought them back, we corrected them, he needed them very badly; and then he came over directly and picked them up when we said we had finished the corrections, so the way it really happened was, the

memo was written, Tom Joyce saw it, we sent it over there. Then they looked at it, said there were errors in it, brought it back to us for corrections, and the corrections were made on his sheet and given back to him *without* Tom Joyce's seeing the corrections. Now, to the best of my knowledge, I believe that's the situation as it happened.

Q. Well, now, we have a hiatus of approximately one month before the initial request was made by Kofkin.

A. Yes.

Q. To the time that the Office of Economics got that material, and we are very seriously trying to find out what happened during that one month period.

A. Well, actually *nothing* happened that I know of on *our* level. We did not do *anything* about his request because we told him we believed it was a violation of confidentiality to give him work papers and documents which he requested. He didn't ask for a *composite* then; he asked for the actual *documents*, and it wasn't until after Tom Joyce had his meeting with John Wilson and Haskell Wald—

Q. Which we have placed about March 6.

A. OK. It wasn't until after that time that we started working on this material. Now, I—

Q. It took *one day*.

A. I don't recall. When I was talking about "one day," I was talking about the *corrections*.

Q. Well, then, will you refresh your recollection and tell me how long it took Pavetto to do the initial work?

A. I don't recall exactly how long it was—I honestly don't.

Q. And that's your testimony, and that's the way your testimony will be during the course of the hearings?

A. That's exactly right. That's the way it will be, because I *don't remember* how long it took. Like I say, I had *many* other things I was working on, and it was just one of many things, and this was just one of many things, and I just can't keep track of all these things in my mind at this late date. I mean—if I knew, I'd tell you.

Q. Do you know whether or not the Joyce request of you to have those concentration figures prepared was before or after the letter of March 7 from Chairman Hart to Chairman Nassikas?

A. I don't know.

Q. When Mr. Joyce asked you to have that composite prepared, did he refer to the fact that Dr. Wald had asked him for the material?

A. He referred to the—I think he referred to the Office of Economics, I think was the phrase, had asked him. And we had a discussion about it and decided—he decided that we should give them the material. It was *his* decision, not mine. And I asked him then if he would be willing to state that the composite material we were going to give to them did not violate the confidentiality order, to protect myself, since I was named as the officer in charge of this by the Commission, and he agreed to do that.

Q. And he indicated to you that at least someone from the Office of Economics asked him to have that material prepared?

A. Well, he told me he had a meeting with them.

Q. And you can't pin down that date at all?

A. No, I can't. I'm sorry—I really can't.

Q. Now, I wish you'd relate as best you can the conversation which you had with Mr. Joyce on this occasion?

A. Well, this will be strictly complete paraphrasing of what took place, because I don't recall the actual details of the words of the conversation, but he asked me to come up to his office, and at this time, my office was two floors below and almost a whole building away from where he actually had his office.

So I came up to his office and he told me he had had a conversation with the people in the Office of Economics and they had asked for this material. And they were willing to accept it in composite form, and he believed that it was not a violation of the Commission order for us to give them that information, and could I prepare it.

And I said we certainly could prepare it, but in the transmitting memo would be indicate it was our belief that it did *not* violate the Commission order, but that it should be maintained confidential within the agency.

And he agreed to that, so I went downstairs and assigned Mr. Pavetto the job of putting it together—the composite that they requested.

Q. Did you have a discussion with Joyce as to *why* the Office of Economics wanted this material?

A. No, I did not.

Q. Did you have any knowledge of why the Office of Economics wanted this material?

A. At that time I didn't. Later on, I was informed that they were working on a case for the Commission—I believe it was some rate case—and that's what they needed the information for.

Q. When, later on were you informed of this?

A. I don't know exactly. It was some time after we started to prepare the material.

Q. But prior to the time you transmitted it?

A. Yes.

Q. OK. Now, after Joyce told you to prepare that material, how long did it take for the material to be prepared?

A. Well, I think I've already answered that question a few minutes ago—I don't recall exactly. It could have been—let's see—it could have been a week or two weeks, because that wasn't his only job, either. He had other things to do. Now, when I say "a week or two," I mean the actual time he put in from start to finish. Now, the actual amount of hours that he put in on it, I don't exactly recall, because he was working on another project as well.

Q. As I recall, and we can check the transcript, Mr. Pavetto advised us that it took him three days—two days to prepare that information?²

A. Well, that could be right. I don't recall.

Q. Well, once again, would you attempt to refresh your recollection and say whether it took two days or two weeks?

A. If Mr. Pavetto said it took him two days, then that's what it took. He's an honest person. I don't think he'd have any reason to state anything other than the truth.

Q. So you don't know for a fact that it took two weeks, is that correct?

A. That's right. I was just giving you an estimate, the best I could recollect—and like I say, I have many other things on my mind and I can't recall every incident that took place during that time period.

Q. Well, now, if Pavetto's statement is correct and it took him two days, I'd like to know what caused him the inordinate delay in getting the material to the Office of Economics?

A. I don't know if there *is* an inordinate delay. We just follow normal procedures. Once he gets it done, then we have it checked, and it has to be typed up, proofread, and we have no—*no one told us we had to have the thing done instantly*.

Q. How long did Mr. Joyce hold the material before he passed it on?

A. I haven't any idea. When we send something up to his office, we don't date it. They date it in the office when he signs it. So, I sent the material up to him after it had been prepared and checked. How long that took I haven't any idea for sure, but normally it shouldn't take more than two or three days to get this stuff processed—you know, you put this in the typist's bin, and she gets to it when it comes up. Then she has to proofread it and we have to get the extra copies made for records, and then it's sent up to his office. And it's brought up there through the mailing system, which would mean it might take a day for that—and then however long it took for him to get to it.

Q. And you haven't any idea how long he had it in his possession?³

A. I haven't any idea.

Q. How long did you have it in your possession?

A. I don't know for sure, but it couldn't have been more than two or three days at the most. I mean, as soon as I got it from Carl, I turned it over to the typist to be processed—I didn't hang on to it or moon about it, or anything like that. It was just another job.

² "It took me three days to do this thing," *Pavetto Interview*, p. 21. Cf. p. 32.

³ Thomas Joyce was listed as traveling as follows: Feb. 21-23, March 15-16, April 1-2, April 5, April 12-13. Other dates precede the February 21 entry. From "Selected FPC Employees Absent from Office," January 1-July 30, 1973, furnished by FPC. The same list indicates that Mangen was absent April 10 (2 hours) and April 20 (8 hours).

Q. When was it that Exxon—or Humble, asked for their material back, do you recall?

A. . . . They asked for it back several times. And I kept telling them that I wasn't through with the material yet. In fact, they had asked for it back before I even had the composite report that was filed on the February 22 in—they had already asked for it back once, or maybe twice, before then. Then they asked for it back at least a couple of times after that. Then I—finally, we put it on the basis as soon as I was through I would let them know, and then they would come in and pick it up.

Q. So when did you let them know?

A. It was sometime after the report was out, but I don't recall exactly.

Q. Was it prior to the time that the Office of Economics asked for the information?

A. It was somewhere around that time. I don't recall exactly whether it was before, or after, or during, or what.

Q. Was it after the time that Senator Hart's letter of March 7 had been received?

A. . . . I don't know exactly. It could have been . . . because I didn't see Senator Hart's letter on March 7. By the time it goes through the administrative procedures at the agency and it gets down to my level, some time has usually gone by.

Q. Did you write Humble a letter?

A. No

Q. Indicating you were returning it?

A. No. I called their attorney, Mr. Poland, on a telephone and told him he could come and pick up his material.

Q. There is no written record?

A. There is no written record, no. I wish there was.

Q. Did you meet with Tom Joyce and tell him you were going to send back the Humble material?

A. No.

Q. Did you meet with Tom Joyce and tell him that you *had* sent back the Humble material?

A. Not until . . . some time in May, I guess it was, when he came in and wanted us to prepare some kind of material for Senator Hart, and I told him that we had sent the documents to be destroyed.

Q. Did you tell Mr. Joyce that you might very well send back all of the material to all of the companies?

A. No. I never made any statement like that to him. No, the understanding I had in talking about this project with Mr. Joyce was we were to do the project the same way the prior project had been done. And that was about the limit of the discussion of the material and how it was to be disposed of.

A. I did find one thing to be kind of peculiar, though. In reviewing the testimony of Dr. Wilson, he states that it was his interpretation, after looking at the order, after I had told his—the fellow that worked for Mr. Kofkin—that the material should be destroyed—that the order didn't read to him that way. Now, he was not familiar with the previous procedures. You see, he came here *after* that, so he didn't know about the South Louisiana case and the other R-405 procedure with John Williams, so I can understand that he didn't understand that—I mean, the way the order's written, it's pretty ambiguous.

But, they *did* meet with Tom Joyce. Now, I'm sure the fact that I had said I was going to have these documents destroyed must have come up, but Mr. Joyce never said a word to me about it.

Q. Now, when did this come up?

A. When did what come up?

Q. Your conversation with Mr. Joyce where you said the documents were going to be destroyed?

A. It was after Senator Hart had made his request to the Chairman to supply the material or be in contempt of Congress—which was some time in May, I think. That was—he seemed quite surprised that this had happened, but I can't understand that after looking over what had happened, because, like I say, I'm sure Dr. Wilson had talked to him about the fact that I *said*, "They're going to be destroyed." After all, he's the one that brought it up. Now, I don't know what took place at that meeting. Maybe Dr. Wilson never *did* say anything about it to him, but since that was a point that he had made in his sworn statement, I would think that it would have been, and I can't, for the life of me, figure out why Tom Joyce didn't say something about that to me at the time, because if he had, this whole thing never would have taken place.

Q. Did you ever discuss with Tom Joyce the fact that you were going to destroy the documents ultimately?

A. No, I never—like I said, the only discussion that we had was that I was to take care of this new R-405 in the same manner as the previous ones had taken place, and in the previous ones, the material was either given back or destroyed, depending upon the particular circumstance that we had.

Q. Mr. Joyce has testified that in March, 1973, you had a conversation with him and told him that you were returning the Exxon material and that you may return other material to other companies.

A. I don't recall that taking place, but I wished I did, because it would strengthen the case that I'm trying to make for myself, that I was honestly following what I believed to be Commission directives in what I was trying to do. But I don't recall that particular instance, no. It could have taken place, though. Like I say, it's a kind of minor incident in a day's work, and I could have mentioned it to him, but I just don't recall that. But again, if Mr. Joyce says that took place, it probably did.

Q. But you don't have any recollection?

A. I don't have any recollection, no. But I also would say again that it could have taken place, because there's a lot of things about this that I've forgotten that you've brought up that I just don't remember.

Q. OK. You remember a conversation with Mr. Maxson and Mr. Joyce where you were told *not* to destroy the material?

A. That is an utter fabrication! I never—that is something I would remember because that would have been a direct order to me to retain those documents, and I'll tell you again like I did before, I would not violate a direct order of a superior, because I'm a career government employee, and that would be grounds for dismissal. *What would be my motive for going ahead and doing that stuff in violation of a direct order (heated)—it's ridiculous.*

Q. Well, once again, what we are trying to do, we're trying to clear up where there has been testimony to the contrary. We want to make sure you have an opportunity to fairly reflect on this and to determine whether or not such a conversation ever did take place.

A. Well, that, as I've told you before, *that* is a conversation I *would* remember, because it is a *direct order* to me *not* to do something. And I would remember that, and for me to go ahead and violate a direct order, that's *patently ridiculous*.

Q. So you deny that any conversation like that took place?

A. I deny that any conversation like that took place. I do know that Mr. Joyce was under very extreme duress from the higher officers in the Commission to the extent that he seemed to be almost on the verge of a nervous breakdown, and other people could probably testify to the same thing.

Q. Under duress in what regard?

A. I don't know, but he seemed to be under a tremendous amount of pressure, and his last—during that time period when this was taking place.

Q. Mr. Mangen, I very frankly would advise you to be completely honest with us in all factors surrounding this situation as you can be and if you know of other factors that you feel enter into this, I would suggest that you be completely honest with us and advise us of it.

A. I'm trying to be. I'm trying to tell you everything I know about this situation, because I know—

Q. Well, what do you know about Mr. Joyce being under duress?

A. Well, all I know is he would lock himself in his office and wouldn't come out, and the few times I did talk to him, he seemed to be under sedation. Now, this is just my personal opinion. I'm not a doctor or a medical person of any kind. He seemed to be like he was under a terrible stress. Now, you can ask Mr. Albares, who I worked for, who probably could tell you the same thing, because he noted it to me also.

Q. Did Mr. Joyce ever give any indication as to what caused this strain?

A. Not to me, but I ran into him a few times in the hall and indicated my appreciation of his help to me, and he broke down in tears, which is not something you ordinarily expect someone to do.

Q. Did Mr. Joyce ever indicate to you that he would like to bear more of the responsibility for this?

A. Yes, he did. He stated that he felt like he was *fully* responsible for what took place, because he was the man in charge.

Q. Did he ever tell you why he was not bearing more of the responsibility?

A. No, he didn't.

Q. And you don't know why he was not bearing more of the responsibility?

A. Well, anything I could say on that would be sheer speculation on my part.

Q. Well, what is your speculation?

A. I would think that he was having pressure from the Chairman and the Executive Director. That would be my opinion on it, and like I say, that's strictly my opinion. I have no direct evidence on this and nothing that would hold up in a court of law.

Q. Have you heard that from either Mr. Joyce or from anyone else in the Power Commission?

A. No, I never heard anyone say that. That's just, like I say, my own *impressions* of what was taking place.

Q. Have you ever advised anyone of these impressions?

A. I've talked about them to Mr. Albares, who was my superior.

Q. And what was Mr. Albares?

A. He seemed to be of the same opinion.

Q. He also believed that pressure was being put on Mr. Joyce?

A. Yes, he did.

Q. Do you have any idea as to whether or not Mr. Joyce's resignation from the Commission had anything to do with the incident of the attempt being made to destroy these documents?

A. Well, I can't think of any other reason why he *should* have been asked for his resignation. This is the only thing that was taking place at that time that would cause this to take place that I can think of. Now, I don't know the procedures, but I understand the way it is, that when a Class C political appointee takes a job, he turns in a signed blank resignation. Now, that's the folklore that we have in our department. And at any time, the person that he works for—it would be the Chairman in this case would be the one—he's the chief executive officer of the Commission—wants to have him resign, he just puts a date on it and hands it to him and says, "I accept your resignation." Now, I don't know if this is true or not, but that's the kind of thing that we've been told in our conversations or bull sessions, or whatever you want to call these things.

Q. Is there any reason that Mr. Maxson would testify that he gave you a direct order not to destroy this material?

A. . . . I would guess it would be to protect his job, because he never did it. He never gave me a direct order and, therefore, if he said such a thing, he's either trying to protect himself or someone higher up.

Q. Do you have any information in that regard?

A. Well—it's his word against mine, because I have no witnesses who'll be able to state that. But, I categorically again deny that any order of any kind like that was ever given to me by Mr. Maxson, Mr. Joyce, or anyone else like that in the Commission.

Q. What's the status of the disciplinary action that's been brought against you?

A. I received on or about August 2 a letter which is sort of like a show cause as to why I should not be disciplined—up to 30 days suspension, and I would have ten days to submit a written defense. Within about eight days, I submitted a written defense, and I haven't heard one single word from them since, and I've called them at least once to ask them what they're going to do about it, and they say, "We're working on it."

And that's all I've heard from them. So, I've been under this cloud now for two months waiting to hear what they're going to do. As you know, a 30 day suspension could be a very severe financial blow to me. I'm a family man and I have three young children.

Q. Yes, and we're not unsympathetic to the position you're in. Mr. Mangen, we're not. All we are trying to do is to determine exactly what were the facts surrounding the destruction of the documents and then the circumstances after the destruction of data.

A. I might add that I was told by Mr. Maxson—and again, it's my word against his—that 30 days was chosen because that does not leave me any recourse to appeal to the Civil Service Commission. Under Civil Service regulations, if a disciplinary action is 30 days or less, you do not have a right of appeal, except as to procedure.

Q. And Mr. Maxson told you this?

A. Yes, he did. I checked it out. Mr. Albares and I went down to talk to Claudius Fike, who is the director of personnel, and he said, Yes, this was true

and he had so advised Mr. Maxson. Now, I contacted an attorney with the Justice Department, whom I happened to know, who is versed in these areas, and he told me as a veteran, I have a right to appeal, regardless of the situation. And if they do try to discipline me on this, I do intend to exert all my resources in appeals on this thing, because I don't want anything like this on my record.

Q. You indicated, I believe, that Mr. Pollen is Humble's lawyer?

A. Yes, Sherman Pollen.

Q. Is he located in Washington?

A. He is located in Washington, yes. . . . By the way, I might mention also that through some people I know in the Payroll Department, they informed me that the check that had been drawn in my name to the amount of \$250 award for the superior work that I had done during the year was revoked, without telling me about it, without making any charges against me—they just turned in the check and said, "Cancel it." . . . That's another thing: after they make their decision in this, I'm going to file a grievance on them about that.

Q. Well—and let me just say this, Mr. Mangen, and I'm not indicating that you are at all, and I'm not making accusations at all, but I would certainly hope that you would be as frank as you can with us, because I don't think that there is any purpose in protecting higher-up's at this point, if in fact, that's what you're doing.

A. I'm not protecting anybody. I'm telling you everything I know about this. I feel like I'm being used as a scapegoat by the higher-up's in the Commission to protect themselves, because I feel that I've done nothing wrong, that I've only tried to do the job that I was hired to do, and that for anyone to try and accuse me of something like this, it's really a terrible thing. . . . Ah, did you interview Mr. Frank Allen, the acting Bureau Chief?

Q. Yes, we did.

A. Well, Mr. Allen has told me that he personally believes that this is something that should have never been done, and that he was actually told to leave a Commission meeting for bringing this up and stating that this is the kind of procedure that would do the Commission no good, and that no crime had been committed, and that they told him he wasn't contributing anything to the meeting and he could leave. He personally told me this.

Q. Did he indicate when this occurred?

A. This occurred after they—just about the time they issued this letter against me of show cause why I should not be charged.

Q. The reprimand?

A. The reprimand, yes.

Q. Did he indicate who told him to leave the meeting?

A. Well, it was probably the Chairman, but he never did say.

Q. But this was at a Commission meeting?

A. Executive session.

Q. Executive session?

A. Yes.

Q. Now, I'd like to review once again the circumstances surrounding the alleged telephone call by Mr. Kofkin to either Mr. Zabel or yourself on approximately February 27, when the material was first requested by the Office of Economics, and I wonder if you would run over your recollection of how this came about and your conversation?

A. Well, this first call that I got from Mr. Kofkin, he stated that he had seen our composite report and that he would like to have that material—the work papers and the documents, to do some work with, and I informed him at that time that these documents were confidential and that he couldn't have them and that they were to be destroyed, or some words to that effect.

And he said, OK, and that was the end of that conversation.

Q. So, it's your testimony that you told him that they *were* to be destroyed?

A. Or *should* be destroyed—words similar to that.

Q. And you deny telling him that they *had* been destroyed?

A. Well, that would be ridiculous, because they hadn't been.

Q. So that if it's his testimony that you told him they *had* been destroyed, either his testimony is wrong or he misunderstood what you said?

A. I would think he misunderstood what I said, because I've talked to him a few times, and he doesn't seem like the kind of person who would deliberately distort the truth or anything like that. So, it's merely a misunderstanding of what I said. If he wasn't listening too closely, he could easily have interpreted what I said as "had" been destroyed instead of "should have" been destroyed.

Q. Now, then, did you talk to Mr. Kofkin on another occasion when he came over to get some corrections?

A. For a few moments I did.

Q. Can you tell me to the best of your ability what took place during that conversation?

A. I don't recall a word of it. I really don't. He came over and I know he told me about these errors, and I told him that we would go over the material and check it, and as soon as we—and he indicated he was in some hurry to get this. So I said we'd get onto it as "soon as we can" and as soon as we had whatever corrections we could find, that we'd let him know and he could come over and pick the material up. Now, like I say, I don't recall the exact words, but that's the way—I believe, the way it took place.

Q. And that was on the first time that he requested corrections, is that correct?

A. That's correct, yes.

Q. And at that time there wasn't any conversation with regard to the documents' being destroyed?

A. No, I don't *believe* there was.

Q. Now, was there a second time that you had a conversation with Mr. Kofkin relative to corrections?

A. Yes, he called me, and—wait a minute . . . I want to think about this—I don't want to get this mixed up. . . . Yes, I believe he called me back and said, even after we'd given him the corrections, there still appeared to be some discrepancies between what we had on the composite that we sent to him under Tom Joyce's signature, and the report that we had filed on February 22, and I believe at that time I told him we had returned Exxon's material, but I'm not positive about that, and there was no way we could check it. I know I had one conversation with him where I believe I told him we had returned one of the filings and there was no way we could check it.

However, subsequent to that time, we have gone over it exhaustively, and there were a few minor errors in the thing. It looks like typo's actually—which was probably the thing which he said he couldn't understand.

Did you ever get a copy of that revised report we put out?

Q. Yes, I believe we did.

A. Yes. There was, I think, two typographical errors in the third chart, and there were some changes we made because somebody finally filed that had said they didn't have any material, and it turned out they really *had* filed and the thing had been sitting around the Commission in the Office of Public Information for about four or five months, and we didn't even know it was there, and Steve Aug of the Washington *Star* was going through the files as he does occasionally. He found it and told me about it, and so I went down there and picked it up.

Q. Now, this was Pioneer?

A. Pioneer, right.

Q. Now, they first of all, as I recall, reported to you that they had no reserves, is that right?

A. Yes. I called them, and I had a little piece of paper that I wrote things down on, by the names of the seven companies that hadn't filed. They indicated to me at that time they didn't have any reserves. However, they later—and I think it was in January—they did file a statement where they did have a very small amount of reserves, but I didn't know about it, so I just assumed that the statement they'd given me was true and I went ahead and made the composite.

Q. Did you insist that they file a statement?

A. Yes. Later on I contacted them again and said, "Please file something, a letter, or what have you. So they made a second filing, which was practically a duplicate of the first filing, which would indicate they had a very small amount of reserves. And I got that some time in June, I believe—the second filing.

Q. Well, when you talked to representatives of Pioneer, do you recall whether or not they said something to the effect that, "We don't have enough reserves to worry about," or did they make the statement, "We don't have any reserves"?

A. I thought that they had said they didn't have any. Otherwise I would have,—and I told them at that time, "Well, please file a letter to that effect, which indicates that you don't have," which is the standard procedure. Instead of filing a form, it was a lot easier for them to make a statement and later have a company official sign it. And I gave every company that option: if they didn't have any reserves, they had the option of filing a letter which stated they didn't have any, signed by a company official.

Q. What if a company files a statement indicating that they don't have any reserves—is there any way you can check it to see if they're telling the truth or not?

A. Yes. We can—

Q. How?

A. We'd have to send a team out in the field to check their documents and make our own reserve estimates.

Q. Did you send a team out in the field to check it?

A. On this occasion I didn't, but on the first time we did this, I did send teams out into the field.

Q. Why didn't you this time?

A. Well, on the first time I did it, the answers turned out to be so close to what the companies claimed, we didn't feel like it was useful in paying the taxpayers' money on something like this, because it is very expensive to send teams out in the field on per diem and airlines trip. It's very costly.

Q. Apparently this time, several major oil companies reported that they didn't have reserves in certain areas. Did this bother you at all?

A. No. This takes place all the time. The day after—I mean, they were supposed to report it as of a particular day of the year, like December 31, say. On December 31 they could have had nothing and the next day, they could have bought a whole bunch or come in with a whole bunch. It just varies from day to day. The only way this information can really be useful to you, is if you have a series of five years where you start hitting them every year. Then you start seeing some kind of a trend. Otherwise, the information is not too great. It just gives you an indication, but it's not really something that you can really count on economically or statistically.

Q. Well, has the Power Commission done this type of routine pattern?

A. They're starting to now. I understand they sent out the same questionnaire again under a different section head, in which he is to make the same kind of composite that I made. Actually, I haven't done too much of anything in the last four months. They haven't let me do anything. I've just been sitting around at my desk waiting for things to happen to me.

Q. Now, on the second time you talked to Kofkin, you think you told him you couldn't make corrections because you returned Humble's file, is that right?

A. I couldn't make any more refined corrections than we had already given.

Q. And you deny the fact that you told him that the documents had been destroyed?

A. Oh, yes. I might have said that they were to be destroyed, or should have been destroyed by now, or something like that, but I didn't say they were destroyed—because I didn't make the decision to turn them over to the security officer until some time in April—the middle of April or the third week in April, some time like that, when I turned them over to Mr. Vivian.

Q. Your statement is that you did not make the decision to destroy these documents until the third week of April?

A. Around the 20th, 21st, 22nd—somewhere around in there, when I actually decided that we were going to move to a new building and they were sensitive documents and that it probably was as good a time for me as any to get rid of them. As you know, when you move a federal agency, it's awfully easy for you to lose things—we've lost things during that move that we've never found.

Q. Now, after you had had these contacts with the Office of Economics relative to the concentration ratios, did you ever make the statement to the effect that you sought to destroy the material in order to save yourself the trouble of having to furnish them information?

A. I might have said something like that in jest to one of the people that worked for me, but it wasn't really meant to be serious.

Q. Well, would you refresh your recollection a little bit and tell me what you may have said?

A. Oh, I might have said something like, I really should destroy these things like I'm supposed to just to keep from having to do all these extra studies, or something like that. I don't exactly recall what I said, but it wasn't meant seriously. It was just said in jest.

Q. Who did you say that to?

A. Gee, I don't know. It might have been Pavetto—it might have been Joyce Powell—it might have been someone else.

Q. And you never said it except in jest?

A. That's right.

Q. You don't know when you might have made this statement or in what connection?

A. No, I don't recall.

Q. Now, as I recall, you indicated that you had some time back, talked to Joyce about the receipt and care of this information, and I believe you indicated that there was an exchange that you would treat the information the same as you had treated other information in the past. Is that correct?

A. Not exactly. What I said was we would do this in the same way as it had been done before. Now, I don't know if that's exactly what you said or not, but that's the way I said it.

Q. Well, what did *you* mean?

A. Well, I meant that after we accomplished the purpose for which the order was written, the material would either be returned to the company or destroyed, which is what we had done in the previous proceedings. In the one just prior to mine, the way they handled it, they were able to return the material to the companies immediately. But we changed a procedure slightly in the one we had—which was noted in the order, that, something like: it should be noted in the order that, unlike the previous R-405, you must bring your material to Washington. We're not going to go out in the field and do it. That was merely because it was my decision—I thought we could save the government some money than by me going out in the field and picking this up. And we had gained, I believe, a certain rapport with the companies. They now believed that we *would* treat these materials confidentially and that we could be trusted. And so, I used that to save the government some money and had them come into Washington.

Now, I think I indicated in my testimony that one of the companies, and I believe it was Texaco, though I'm not positive, when they found out that I wasn't going to copy the numbers off the sheet and return it to them instantly, said that they would not leave it with me. And they went back and contacted their principals and then came back later and said it *would* be all right to leave it, but they did want it either destroyed or returned to them as soon as we had finished the purpose of the order.

Q. And you believe that Joyce knew enough about what was going on so that he would understand what you meant, is that right?

A. Well, he *should* have, because he was there during the time period these things had taken place.

Q. So that as far as you were concerned, you thought that he didn't at least register any protest with respect to either destroying the documents or sending them back?

A. That's right. I assumed that he realized—in fact, it was so understood on my part, I didn't feel the need to vocalize it evidently. I didn't say, "We're going to do this. We're going to do that." I said, "We're going to do it the same way as before, OK?" "OK."

Q. And you never actually said to Joyce, "We're going to destroy these documents?"

A. I never made that statement to Mr. Joyce—either return or destroy. Now, this is the best of my recollection. I want to make sure I don't make a mistake here and have something I've forgotten come back and haunt me, but this is the way I remember that, but I never did tell him that in so many words.

Q. Did you ever tell Mr. Albares that you were going to destroy the documents?

A. Oh, he knew what we were going to do with it. We had discussed it. I did inform him—at the time I was going to do it, I did inform him that this is what I was going to do. I was now going to take the documents down to the security officer and have them disposed of, having returned all those to the companies that requested that return, which in this case was only one. And he said, "OK," or words to that effect, and so I went ahead and did it.

Q. He didn't indicate you should go to a higher authority—you should go to Joyce or anyone else?

A. No.

Q. Now, prior to R-405 update, and I believe it was maybe—did you work in AR69-1?

A. Yes.

Q. And on that occasion, you actually went out to offices of companies, is that correct?

A. I sent teams out to audit these figures in offices of companies, that is correct.

Q. Did you go yourself?

A. No. No, I stayed in Washington and sent out a couple teams of people, who reported directly to me by telephone on the results.

Q. Well, was there an understanding that each night before these Power Commission employees left the offices, they could be subjected to search by company personnel?

A. Yes. There was a kind of a tacit understanding that they would not—No, the approach was that they were not to take anything out of the office, period. That was the instruction they had. They were not to be *searched*; they were just to leave everything *there*.

Q. Well, could company personnel search them to make sure?

A. I guess they could have, if they had wanted to, but I don't believe that ever took place. . . . Again, we're dealing with professional people on a professional level, and you just don't deal in this high security type stuff, like you would in an atomic energy plant, or something like that, that really had some danger involved.

Q. Now, as I recall, when Joyce Powell was working on this material, you indicated you gave her very strict instructions with regard to the security of this material, and I wonder if you would just relate that again for us?

A. Well, the way I recall it, she was to keep the material locked up when she wasn't using it.

Q. Those were your instructions to her?

A. That's the way I remember it, yes.

Q. Now, to your knowledge, did she do this?

A. As far as I know.

Q. Do you know how she did it—where did she lock it, did she put it in a safe every night?

A. I don't believe she put it in a safe every night, no. I believe she locked it in her desk.

Q. How about Carl Pavetto?

A. He was supposed to handle it the same way. If he didn't return them to me . . . though I believe in most cases, he returned them to me, and I locked them up. But when he had them in his possession if he left his desk or anything, he wasn't really supposed to leave them laying around. He was supposed to lock them in his desk. Now, this was a precaution—kind of an elementary precaution to prevent anyone from just thumbing through the things.

Q. Was he provided with a lock for his desk, do you know?

A. Well, most of the desks have locks on them, as I recall. He never told me that he had a desk that *didn't* have a lock on it, if you want to put it that way.

Q. And did you give him instructions to maintain the security of those documents?

A. I don't ever recall telling him that, but I *should* have, if I didn't.

Q. I wonder if you'd just run over once again for us your understanding of what the confidentiality of that order was and who could or could not see the material or the calculations made from the material?

A. My understanding is, as the investigating officer I was directly responsible for maintaining the confidentiality of the documents, and that only people who were under my direct supervision would be allowed to work with the material.

Q. So that this would bar *everybody* else?

A. Everybody else.

Q. Including the Commission itself, or an individual Commissioner?

A. He would have to issue something to me in writing before I would give it up.

Q. And how about Tom Joyce?

A. The same way. I would ask for something in writing before I would give it up. Because the order doesn't say Tom Joyce is to have access to it, or any individual Commissioner. It says *I'm* to have access to it and keep it confidential.

Q. Was there a time when Mr. Joyce talked to you about the problem that you found yourself in with the Commission over this matter? Did you have a general discussion with him on that?

A. No. Nothing in any detail at all. After the big rush to get the material prepared for the Committee, which I supervised—it seems funny that I was able to supervise it, but still I wasn't considered to be a worthy employee of the Commission. But, all that material that the Senator received from the FPC was done under my supervision. In fact, they couldn't have done it without me because they couldn't have interpreted the material—the way it was arranged and the way it was put together, in the time period they had.

Q. They probably couldn't have pasted back the documents together—

A. Without my help they could never have done it, because they didn't even know what they were doing. I had to stay in that room and show them just how to put it together and how to arrange it. And during that time, Tom Joyce and I were working rather closely to get that out, because he was under pressure to get that out by the Chairman, who is a very hard person to work for. He doesn't accept excuses, no matter how valid they are. And, after that, I didn't have too much contact with him anymore.

Q. Did Joyce indicate that he would back you?

A. Well, he indicated to me that he felt fully responsible for what took place and that he would support me, and that's about the size of it. We didn't have any long detailed discussions about procedure, or anything like that.

Q. Well, what kind of support has he given you?

A. Well, frankly, not very much, the way I see it right now, except to state that he felt he should be responsible, but he didn't go up to the Commission and ask them on my behalf to stop these proceedings because they're unfair, or anything like that, which I think is what he *should* have done. But, he's his own man. I can't tell *him* what to do.

Q. Why did he *feel* that he had a responsibility?

A. He's the supervisor of the Bureau of Natural Gas, which is responsible for this. Frankly, I feel like he *should* be responsible for it. He's being paid a large sum of money to take care of these things, and it's his responsibility to do them. Now, everybody's human and makes mistakes and things happen, but if something does happen, and you're the man in charge, you're responsible.

Q. Did Joyce ever talk to you about taking you with him when he left the Commission?

A. No.

Q. Did he make any promises that he'd take care of you or try to place you or anything like that?

A. No.

Q. Why do you think he *hasn't* sided with you publicly?

A. I really can't say. Perhaps it's the tremendous pressure put on him by the higher-up's in the Commission, or something like that—I really haven't any real idea why he hasn't come out more than he has.

Q. Well, you clearly, it seems to me, seem to feel that there *are* higher-up's in the Commission that *are* exerting pressure in this matter, and I wonder, why do you think they're doing it?

A. The only thing that *I* can think of is that they've made statements in haste, or shooting from the hip, or whatever you want to call it, before they knew the facts of the case, and now they're trying to back up what they said.

Q. You think they're trying to make you the scape goat?

A. That's the way I feel right now, yes. Otherwise, normally, in a situation like this, when something like this happens, the people you work with gather around and support you and protect you, but they certainly haven't done that—as long as it isn't anything that's outright criminal. In other words, if you've made an honest mistake, they're going to try and help you, but I didn't receive very damn much help from the people who were—except for Mr. Albares, and Mr. Allen—who though he wasn't directly involved, certainly did think that I deserved some support.

Q. Well, who do you think made statements and "shot from the hip" and is now trying to get out of the responsibility?

A. Well, I frankly think that the statements that the Executive Director made to the press when this first came out should not have been made. He talked about a "staff blunder," and there was no staff blunder. I was following what I believed to be Commission practices and procedures. Now, I don't know all the things that he said, so I can't really refute him point by point.

Q. So you think the Executive Director may be partially responsible for putting you in a situation?

A. Now, if this meeting took place that you spoke of, where the Executive Director ordered me not to dispose of these documents, and then I went ahead and did it, why isn't he going to have me up on charges of direct disobedience of an order? Why did he have to resort to a violation of a very ambiguously worded Commission order, which was the third in a series of orders and which procedures had been carried out during these orders were no different than what I did? So, if he's the one that made that statement, it's obvious what he's trying to do: he's just trying to protect himself.

Q. Who else besides the Executive Director do you—

A. Well, there's only one person in the Commission over him, and that's the Chairman (with surprise).

Q. Well, does he make statements?

A. I don't know what the Chairman has said. All I know is that on the Saturday day that this all broke, I tried to call the Chairman and tell him I had been called by the newspaper reporter for the Washington Post and he never called me back. I tried to call the Executive Director and he wasn't home. I called Tom Joyce and told him that I had refused to answer any direct questions, as per his direct orders, and he said that was what I was supposed to do—not say anything, which I did. If I'd have spoken at that time, it might have been a little better for me with the press. The press really crucified me, I think. In other words, there was an assumption that I was guilty of some crime, which had never been taken to any judicial body of any kind. In fact, I even heard from my mother in Minneapolis. She was all worried and wondered what was going on. I understand it got clear to Los Angeles and Houston and every place else in the country.

Q. Well, now, do you feel that when this thing first broke that at *that* time Joyce was in your corner and was trying to protect you on this thing?

A. Well, I assumed that he was. He hadn't given me any indication that he wasn't.

Q. Did there come a time when you felt he was less in your corner than he had been?

A. Well, actually, the way I felt about it, I felt that the poor guy had been so pressured that he didn't know what he was doing and I couldn't hold him responsible for not doing a better job of helping me than he had. I just felt sorry for him.

Q. Do you feel that even though you're the one that may be disciplined and you're the one that lost the award, you feel that maybe the pressure that was put on him, that he wasn't able to stand up under as well as you have, I guess?

A. That's about the size of it. . . . Of course, I didn't have to deal with these people every day on a day-to-day basis, like he did, and get browbeaten every day, like he probably was.

Q. What makes you—I wish you would be just as frank as you can with us. Mr. Mangen. Why did you believe this?

A. Well, I've heard reports from people who have gone to Commission meetings that the Chairman, when he doesn't get his way, loses his temper, and raises his voice, and shouts at people, and uses language that you generally don't use in a group of people in a professional level. I've heard that he's almost forcibly thrown people out of his office when they've refused to do, or follow the line, or point out that he might be making a mistake. Now, this is all hearsay. I've never witnessed any of this, but I've talked to people who *have* witnessed this, and they've told me of these things. And I can imagine what a man who has that kind of a temper, who *is* used to using it, could do to a person who doesn't exactly have a strong will, or who isn't used to standing up under that kind of pressure.

After all, you've got to remember that Tom Joyce depended on that man for his job. He's a family man with responsibilities, he has five children, I believe, and three of them are all in college right now, so that means he has tremendous expenses, and here is a guy who holds the club over your head. He could kick you out any time he wants to. So you could see what he could do to a man. Now, I'm a little better protected. I'm under the Civil Service Acts, and I'm a veteran, and because of that, they can't put that kind of pressure on me without actually going and proving charges against me. So, under those conditions I have a little bit better position than he had.

Q. Well, do you feel that had Tom Joyce stepped forward in your defense and accepted the responsibility, that just by virtue of his position, that might have implicated the Power Commission itself in the negligence?

A. Well, I suppose it's possible, though I really don't understand what you're trying to get at here.

Q. Well, you know, I guess, obviously although you make a very convincing case that the procedure that you followed in this instance was the procedure that had been routinely followed in the past, now obviously, the Commission itself is denying that at this time.

A. Yes.

Q. And what I'm wondering is, isn't it easier for them to deny that if just *you* are involved than it would be if Joyce, who was head of the Bureau, is also involved?

A. Well, that's obviously true. I mean, by getting at a single individual, you certainly can take the onus off the agency. Though, I still point out, I don't believe any crime has been committed, of any kind.

Q. No. I understand your contention there.

A. At most, I can probably be accused of being too apolitical, which I *assumed* was the *answer*—the letter stating that under the Public Information and the Freedom of Information Act and the Natural Gas Act, that the Senate did not have the right to the information, I assumed that that was the Gospel truth, and about a month later, when I decided it was a good time to get rid of it, I didn't even think about the Senator's wanting the material. Perhaps if I'd have thought about that, I'd have said, "Well, let's wait a while longer and see."

Q. And as I recall, you indicated that you were the one that construed the Freedom of Information Act and the Natural Gas Act in that instance?

A. No, I don't really, say I construed—we looked into it, we prepared the letter, the letter then is reviewed by the Office of General Counsel. It goes through the Commission, and they sign off on it. If the letter gets out at all, it means that the rest of the Commission who are supposed to have that responsibility *agree* with the statements in that letter. And so, the fact that the letter went out meant to me that the Commission and the Office of General Counsel both agreed with the position that we had taken. And if you get the file copy of that letter, you'll find the initials of a couple or three Commissioners and maybe an attorney on it, indicating that they saw it and they'd passed it on, because those letters that go out to Congressmen are *always* reviewed by the Commission and the Office of General Counsel.

Q. Now, am I correct in my understanding that you went and you got the Freedom of Information Act and the Natural Gas Act and in your own conclusions, you honestly concluded that you could not release the material by virtue of that fact?

A. That's true. Because there didn't appear to be any exceptions.

Q. Well, did you get to the end of it where it said it didn't apply to Congress?

A. I didn't ever *see* that. In fact, I read through those. I don't remember seeing anything like that. That would have been *stupid* to put something in there like that, if it said that it didn't apply to *Congress*. I mean, you're just fooling yourself if you're trying to use that as an excuse.

Q. OK. Let's take a five minute break and we'll regroup and see if there's anything else we want to cover before we terminate the interview. . . .

I'd like to go back over one area covered by Mr. Bangert and see if we can't clarify statements of other people. Try to recall when you were first told by Mr. Joyce that he wanted you to prepare concentration ratios for the Office of Economics, and relate this the best you can—the full substance of the conversation.

A. The way I recall it, I got a telephone call from Mr. Joyce stating that he had had a conference with the people from OEC and that he wanted to talk to me about it. So, I went up to his office and he indicated that they had a discussion and they—something to the effect that they had agreed that they didn't have a right to the actual documents that were filed, but that—a compromise may be made by issuing some kind of composite which wouldn't reveal individual company data, and he asked me if I could prepare something like that.

And I said, Certainly I could, but I wanted to make sure that it was understood that the understanding was that this was *not* considered to be confidential, but administratively confidential, which means "in house," so that I would be protected, since I was the investigating officer named by the Commission. And that's essentially what took place, to the best of my recollection.

Q. Was that the occasion upon which you told Mr. Joyce, when you finished your task you would treat the documents the same way prior FPC confidential-type documents were treated such as in AR69-1 and original R-405?

A. No. We didn't discuss that particular phase of it at all, the disposition of documents, at all. This has been done prior to that time, when I had been given the assignment.

Q. You told him when you were given the assignment how you were going to treat the documents?

A. That's right. I said, we'd do it—He said, "Do it the same way it was done before."

And I said, "OK. We'll do it that way." And I don't think we had any other discussions at any time which amplified on what I was told.

Q. Did you ever tell him that you had returned the Exxon documents?

A. I don't think I did, to the best of my recollection, prior to the time that he discovered that I had given them to be destroyed—he found out about it after that time, but prior to that time, I don't believe I mentioned it to him.

Q. Did Mr. Albares ever advise you to indicate to Mr. Joyce that you were going to handle the documents the same way you handled other documents?

A. To the best of my recollection, no.

Q. Before you sent the documents to Mr. Vivian, the security officer, did you indicate your intention to Mr. Albares of destroying the documents?

A. Yes, I told him what I was going to do.

Q. How much earlier than the time you brought them to Mr. Vivian, did you indicate your intention to Mr. Albares?

A. It was in the same day or the day before, the way I recollect. It was a very short period of time.

Q. What did Mr. Albares state to you?

A. I don't think he said anything but, "OK," or something like that—some type of affirmative answer.

Q. Did he indicate to Mr. Joyce what you were going to do?

A. I don't *think* so.

Q. Do you have any reason to believe that Mr. Joyce had knowledge of what your intention was before you carried out the act?

A. The only thing I can recall is what I related to you prior to this time, that in the discussion with OEC, since they thought I was going to destroy the documents, as Mr. Wilson has so stated in his testimony, that it *should have come up* at that time. And if it did, Mr. Joyce should have told *me* something about it, and he didn't. All it would have taken anywhere along the line was someone to have let me know that these things were to be retained, who had a right to tell me that, and they would have been retained.

Q. Did Mr. Joyce tell you when he asked you to prepare the documents that OEC intended to use the documents in the Belco rate proceedings case?

A. No, he didn't tell me why they wanted them.

Q. Did you ever attend a strategy meeting with Mr. Joyce, Mr. Wald, Mr. Wilson, and lawyers from the Office of General Counsel, concerning strategy for trying the Belco case?

A. I was never involved in the case in any way whatsoever.... That normally wouldn't be a function of my group anyway. We don't ever get involved in rate cases.

Q. After Mr. Joyce told you to prepare the concentration ratios for the Office of Economics, how long a period of time elapsed before you gave the assignment to Mr. Pavetto?

A. I would—my normal procedure is to start it right away if the man is available. Now, I don't recall exactly if he was available that day or still working on something else. But if he was available that day, he would have been told to start that day.

Q. When you say "available," do you mean physically available?

A. That, and—or if he's working on another project, which he was finishing up.

Q. Well, you would have told him what you had in mind, wouldn't you, to find out whether he was working on something else?

A. Yes, I would have talked to him about it.

Q. To the best of your recollection, did you go and speak to him about his new assignment immediately after or within a day after Mr. Joyce told you what he wanted?

A. I believe I did, because that is my normal procedure.

Q. Do you remember how long it took Mr. Pavetto to do this?

A. No, I really don't recall.

Q. After Mr. Pavetto would have completed his task and given you the material, what would you have done with it?

A. I'd take the material over and give it to the typist. We had one typist assigned to 22 people—professional people. And she had to do the typing for the group or get help somewhere and I put it in her "In" box, and as soon as she had finished it and proofed it, she would bring it back to me. And then I would see about preparing the covering memo for Mr. Joyce's signature, and then get that typed, and then take that up to him for transmittal and signature. Then it would have been sent through the mail and put in his office, and whenever he got to it, it would have gone out.

Now, sometimes those things don't go out too fast, because as you realize in an agency that size—I mean, Mr. Joyce had something like 300 people working

for him—an awful lot of material would stack up for him to review. And Mr. Joyce was the kind of person who liked to look at everything himself that he could possibly handle, so it *did* delay things somewhat, because of this. . . . I know for a fact, that a lot of times you'd have to go back to him and check with him and see what had happened because something didn't get out and you'd want to know where it was, and he'd say, "Well, I'm getting to that level in my briefcase," or something on that order.

Q. Why would you have jested to some of your fellow workers about destroying the material?

A. Why do you jest?

Q. Well, why did you make *that* jest?

A. Well, I really can't recall the circumstances, and if you can't recall the circumstances, the jest no longer appears funny.

Q. Did you ever make that jest to Mr. Joyce?

A. No.

Q. To Mr. Albares?

A. No, I don't think so.

Q. Who might you have made it to?

A. Well, like I say, I might have made it in front of two or three people, one of whom might have been Mr. Pavetto or Miss Pollen. I really don't recall the circumstances under which I made the thing.

Q. Could it have been at the time you were collecting the documents and taking them back into your possession from Miss Powell or Mr. Pavetto after the corrections were made?

A. It's possible. If they say I did, it probably did take place afterwards. Like I say, I don't recall. And I have no reason to doubt that they're telling the truth.

Q. Was that the time that you took it to Mr. Vivian?

A. No. That was some time after.

Q. You think you took it to Mr. Vivian substantially after your jest about destroying it?

A. I think so.

Q. Would you have any reason to have recorded in any letter or memorandum of anything like that the fact that you were having—taking the documents to be destroyed?

A. No. No written record of any kind.

Q. Would you have any benefit or any reason to record the date of destruction *prior* to the actual date of destruction?

A. No, no reason at all.

Q. Could that benefit you in some way or prevent other people from asking for information?

A. No. Anybody who asked for the information and had a right to the information got the information.

Q. Would you have tried to create a facade of the information not being available?

A. In anybody's trying to indicate that to you in any way, they're *wrong*.

Q. You're categorically saying, I take it, that under no circumstances would you have indicated or memorialized the actual destruction date prior to your actually taking it to Mr. Vivian?

A. I would never intentionally do something like that. If someone misinterpreted what I said to him, that's an entirely different story. And again, I want to reiterate—which seems to be the point you're getting at—I was *not* in knowledge of the Belco Case at that time, didn't find out about the thing until some time later, had *no* idea why the material was needed or what it was going to be used for or anything like that.

Q. Did the Chairman ever speak to you about the act of destruction?

A. The Chairman hasn't spoken to me since this thing happened! I was at a meeting of the Commission some time after it happened, maybe a week or two weeks, or something like that, and the Executive Director came and took me over and said the Chairman didn't want me to stay in the room. At the time I was sitting there, he would never look directly at me. He kept looking to this side and that side.

Q. What's the scuttlebutt as to the Chairman's reaction to the initial request from Senator Hart for access to the documents?

A. I didn't hear anything on any reaction that he made to it whatsoever.

Q. Well, we know that on March 20, Tom Joyce sent a letter back saying, Sorry, we can't give it to you. We understand that, of course, was cleared by the Commission. Can you tell us what was the Commission's reaction to that?

A. None, that I know of. It was just like a routine matter. I didn't hear any ripples of any kind.

Q. What about when the Subcommittee found it necessary to issue a subpoena for the documents—what was the Chairman's reaction to that?

A. He instantly got a hold of Tom Joyce as soon as that hit, and then Tom Joyce came to me, and you have my record of what happened after that already in my testimony.

Q. I'm looking for characterizations by the Chairman, if possible, or reasons for the Subcommittee's action?

A. I haven't heard a word about that. Like I say, he and I don't even speak to one another.

Q. I thought you might have heard through other people that were present?

A. Oh, you mean through other—

Q. Yes.

A. I never did hear anything about that, no. I assure you, if I'd heard anything that would help me, I'd tell you about it.

Q. What—what was the nature of the charges made against you whereby you might be subject to 30 days' disciplinary action?

A. Violation of a Commission order—specifically, the R-405 order.

Q. Who made out the charge against you?

A. The Executive Director, Mr. Maxson, in a written statement to me.

Q. You're the person who drafted the order you're accused of violating?

A. I assisted in drafting it.

Q. Do you know whether it would be permissible for you to furnish us with a copy of the charges against you and your response to it, or is that something that's confidential?

A. If it's up to me, you could have a copy of it, but I don't know what the status is of this sort of thing.

Q. When you received it, were you charged with retaining it in confidence?

A. No. But, you know, this is a personnel action of the Commission and I don't know what kind of confidentiality that has—whether it would—

Q. We would like to receive it and know what's going at the Power Commission as it relates to R-405 document destruction, and if you have no objection, we'd be happy to receive it.

A. Do you think I should ask somebody about that before I give it to you?

Q. What I would suggest that you do is two things, Mr. Mangen: (1) Search your own mind and talk to your own lawyer, and see if giving us the material would in any way prejudice you; and if you at that point feel that there would be no prejudice, then I think that you, as the recipient of the charge, certainly have the right to give it to anyone you may want to.

Now, on the other hand, in order to protect whatever substance of commandery you still may have at the Power Commission, you may want to talk to the Executive Director or someone like that—

A. Very frankly, I was going to bring it over with me, and then I thought better of it—I thought I'd better check first. I have no reason in the world not to give it to you. In fact, I thought it very nicely states what my position is in here with documentation.

Q. Well, in that case, I think you're very *clearly* entitled—I don't see that there's any privileges which attaches to the Power Commission on this thing.

A. The only privilege that may attach is if I do this, and they get madder at me than they are already, then they'll just rack me up.

Q. All right. Then, in that case, what I would do is talk to Mr. Maxson and indicate that we have requested and if he objects, then what I would do is advise us that he objects.

A. All right. I'll do that.

Q. Who's supposed to make the judgment as to whether to invoke action against you?

A. Mr. Maxson said he was to do it.

Q. Is he the person who conducted the investigation?

A. Yes.

Q. Have you been afforded any right to interrogate or otherwise cross-examine those persons who gave testimony in the investigation?

A. No. . . I might state that the time I talked to Mr. Maxson about, "How about some action on this thing? They gave me ten days. How long do *you* get?"

He said, Well, he'd have to talk to the Chairman, so you can see who's making the decision.

Q. Has Mr. Maxson indicated that his action will be tied to the action taken by this Subcommittee?

A. No, he hasn't indicated that.

Q. Has he indicated whether his date of action will relate to the date the Subcommittee decides to go to hearings on this matter?

A. His only answer to me is that they're working on it and they'll get an answer shortly.

Q. Were you surprised that Mr. Joyce did not come to your defense publicly after indicating to you privately that he believed himself responsible?

A. I was a little surprised, yes.

Q. In your own mind, do you relate Mr. Joyce's actions to what you have termed "Commission duress?"

A. I believe that's true. From what I know of Tom Joyce from working with him the last three years or so, I believe that if he had been allowed to, he would probably have made a more vigorous defense of me than he did.

Q. You spoke before of Mr. Joyce's being under sedation. Do you know if he's been under a doctor's care since these events transpired?

A. Well, someone said that he was under a doctor's care, but I have no direct knowledge of this.

Q. At what point in time did he break down in tears in the conversation?

A. . . . Gee, I don't recall exactly. It was sometime in—I believe it was August—the early part of August, but I don't recall the exact day.

Q. And what was the substance of the discussion?

A. I just said that I appreciated all he was attempting to do on my behalf. That's all I said.

And he said, "I really appreciate your confidence in me." And then tears came into his eyes and he said something a little incoherently, and he left.

Q. Thank you, Mr. Mangen. Is there anything else that you care to state at this point, Mr. Mangen—any areas that you feel that we have not covered that may be relevant as far as you're concerned.

A. I think you've covered just about everything that I can think of, though if I do think of something else, I'll contact you.

Q. OK. Fine. It is now 12:05.

STAFF INTERVIEW WITH WEBSTER P. MAXSON, JUNE 15, 1973

Let the record reflect that this interview is being recorded. The interview is being conducted at the Senate Antitrust and Monopoly Subcommittee offices in the Senate Annex Building. Present are Webster Maxson, Executive Director, Federal Power Commission; Patricia Bario, professional staff member, Senate Antitrust and Monopoly Subcommittee; Bernard Nash, professional staff member, Senate Antitrust and Monopoly Subcommittee; and Charles Bangert, General Counsel, Senate Antitrust and Monopoly Subcommittee. The time is now 9:30 a.m.

BANGERT. Mr. Maxson, since the nature of the conduct being investigated may or may not involve violations of one or more federal laws, we believe it only proper that you be advised of your rights. (copy rights), and

If you would, I will give you this sheet of paper that I have written on and you can reflect upon and if you are in agreement, we would ask that you affix your signature to the paper.

MAXSON. Print my name and then write it on the signature line?

BANGERT. Yes.

MAXSON. I am not going to waive my rights. I have read and understand my rights.

BANGERT. Do you wish to proceed on the basis of at this time not waiving any rights?

MAXSON. We can do that if I have read and understand my rights and agree to the interviewed.

BANGERT. That would be satisfactory, yes.

I think the record will show that Mr. Maxson has agreed to be interviewed. He does understand his rights. He does not waive them. Is that correct, Mr. Maxson?

MAXSON. That is correct.

BANGERT. And you do not desire counsel to be present with you. Is that correct, Mr. Maxson?

MAXSON. That is correct.

BANGERT. All right. If we could go off the record for one minute. Mr. Maxson I want to read you Title 18, Section 1001 of the U.S. Code which states as follows:

* * * * *

We will ask you a series of questions, and we do want you to understand that there is no basis of accusation or innuendo or prejudgment intended. It is only a means of eliciting information from all witnesses and obtaining necessary background to evaluate all of the circumstances involved. And we do hope that you understand that.

MAXSON. I do.

BANGERT. Mr. Nash.

NASH. Thank you. Mr. Maxson if you need a refill on your coffee, or anything like that, please feel free to ask. We'll stop a few minutes and get you another cup. Would you please state your full name for the record.

MAXSON. Webster P. Maxson.

NASH. And your address, sir?

MAXSON. 5423 Beech Avenue, Bethesda, Md. 20014

NASH. Where are you presently employed?

MAXSON. I am employed on the staff of the FPC located at 825 North Capitol Street, N.E., Washington, D.C. 20426. My position is Executive Director.

NASH. How long have you been Executive Director of the FPC, Mr. Maxson?

MAXSON. Since October 1969.

NASH. Can you state what your responsibilities are as Executive Director?

MAXSON. My responsibilities as Executive Director are the general management of staff at FPC. I handle rather directly the so-called proprietary or housekeeping chores with the help of an office of Personnel program, an office of Administrative Operations, and the Office of the Comptroller. In addition, I have the general substantive responsibility for the effectiveness of the staff.

NASH. Could you describe for the record, please, your relationship with other divisions and offices, such as whether you have over-sight responsibilities over the Bureau of Natural Gas and the Office of Economics or just what that relationship might be.

MAXSON. My oversight responsibility is very general in nature. It comes into play more often where there is a dispute between two bureaus. For example, the Office of Economics and the Bureau of Natural Gas may be in dispute as to what the staff position on the record of a given case should be, and I have direct responsibility to resolve those disputes. As to day-to-day supervision of the work, of any office, only the housekeeping offices that I follow that closely—the Bureau of Natural Gas, the Bureau of Power, the Office of Accounting and Finance, the Office of Economics and the Office of General Counsel, operate without a great deal of oversight from me except where occasion calls for it. Generally, coordination of inter-bureau, interoffice activity for resolution of difficulties between bureaus and offices.

NASH. Do you consider yourself to be the superior of the heads of the other divisions?

MAXSON. I do not. We are allocated under the civil service system 9 grade 18s—I am not sure of that figure. I am a grade 18. I do not consider myself the superior to the Chief of the Bureau of Natural Gas, as a grade 18. I have functional responsibilities which allow me to dictate to him when the occasion arises when some dictation is needed on a staff matter.

NASH. I see. Now to see if I correctly understand it then—if there is a disagreement between positions desired to be taken by the Bureau of Natural Gas and yourself, then you generally prevail unless the Commission would direct otherwise? Is that correct?

MAXSON. That is correct. More specifically and more frequently the instance is higher where there's a dispute between the Office of General Counsel and the Bureau of Natural Gas and I intercede to resolve it.

NASH. Yes, let's go back to that for a moment. You indicated a moment ago initially that in event there would be a disagreement between the position desired to be taken by the Bureau of Natural Gas and/or the Office of Economics, you would sit down and discuss this with them and work out a position. Could you elaborate on that a little bit to indicate whether in cases before the Commission or hearing examiner, there can be only one staff position if two different divisions disagree?

MAXSON. As a pragmatic problem, the matter of feasibility, it is simply not useful to have each bureau and office operating independently in a proceeding. There should be in fairness to the parties in the process a single staff position or some degree of unanimity and in a great many cases, the staff, through meetings, and arguments among themselves, decide what the staff position will be. Its only where they are stalemated and we feel that there should be a single staff position that I come in and intercede.

MAXSON. The reason this responsibility rests upon me is because the Commission, as an adjudicatory body and the Chairman as a member of the Commission, cannot direct the staff position. The staff is a party to the proceeding before him and in the usual case, he should remain at arms length from the staff and all other parties. Until such time the record is made and the record comes to the Commission.

NASH. In the event that the Bureau of Natural Gas and the Office of Economics remain at loggerheads and do not agree on a position, I take it you then have the power to direct which position should be taken?

MAXSON. Yes.

NASH. Can you state for the record the instances in which you have exercised this power?

MAXSON. Although they are not frequent, I cannot. That is not because I am trying to frustrate the inquiry, but just because I just don't remember.

NASH. Sure—I understand.

MAXSON. They are not frequent.

NASH. Now, with respect to the chain of command upwards from yourself. Can you state who you report to and how you operate and who gives directions or instructions to you?

MAXSON. Under Reorganizational Plan No. 9 of 1950, the Chairman is responsible for staffing the agency and for allocating work assignments among the staff and its units. I am directly responsible to the Chairman in these matters. In all other matters, I am responsible to the Commission, as such. Budget and fiscal matters, proprietary matters, housekeeping matters of the agency are the responsibility of the Chairman who not only heads the body in formulation of its composite judgment, but also the chief executive officer of the agency under the reorganization plan. So, for administrative matters, I report to the Chairman, otherwise I report directly to the Commission.

NASH. Under the authority and regulations that create and implement the FPC, does the Chairman have singular responsibility for administrative matters?

MAXSON. Yes, he does. There are minor exceptions. One is, he cannot appoint the head of a major organizational unit without concurrence from his colleagues. The other is each of his colleagues has employees of his own: that is those who are not considered Commission staff, but rather individual Commissioner's staff. They have sole responsibility for the appointment, promotion, and so on.

NASH. As to all other appointments then, the Chairman remains responsible?

MAXSON. Yes.

NASH. What about with respect to responding to Congressional inquiries for information, data, or the like. Is that a matter falling within the administrative responsibilities of the Chairman:

MAXSON. The Commission, under Section 8(b) of the Natural Gas Act and there are correspondent divisions (—) has authority to classify documents as confidential if they are, in fact, by their nature matters that the parties furnishing the information therein are entitled to have declared confidential and only the Commission, by Commission action, can remove that confidentiality or a court.

NASH. I see. So except for the Section 8(b) confidential treatment, which the Commission is vested with authority to provide data to the Congress, the Chairman has administrative responsibility for all other responses to the Congress.

MAXSON. In general, if the Congress asks for a Commission view—asks for a composite judgment of the Commission, the matter will be submitted to the Commission for response. The proposed response will get Commission clearance before it comes back. If it is not such a matter, if by its nature it doesn't require a Commission answer, the Chairman will assume responsibility.

NASH. Would the dividing line be Commission action taken on views and opinions and Chairman action taken on facts and data.

MAXSON. No, that would be one division, but frequently they may ask the Chairman for his views and not ask the Commission.

NASH. I see. Thank you. You indicated that on or about October 1969 you commenced your employment as Executive Director of the U.S. Federal Power Commission. Can you state for the record the position of employment you held prior to commencement of your duties as Executive Director.

MAXSON. I think from January 1968 to October 7, 1969, I was Executive Secretary of an independent agency called the Administrative Conference of the U.S. Prior to that time from February 1957 through January 1968, I was an employee of the Department of Justice, Office of Legal Counsel, for the Attorney General's office.

NASH. Can you state for the record the nature of your profession, i.e., lawyer, accountant, engineer, professional manager, or whatever.

MAXSON. I am a lawyer. Member of the bar in Ohio. I am a graduate of the University of Cincinnati Law School. I worked as a lawyer from the time of my graduation, coming first to the government in the Department of Agriculture and extending through my appointment to the FPC where I assumed this administrative position.

NASH. Did I understand you to say that you worked for the Department of Agriculture as an attorney from your graduation at the University of Cincinnati until February 1957.

MAXSON. I worked there from January 1950 until September 1955 when I transferred to the FCC. I returned to Agriculture 9 months later and worked another year on a single case they had there and at that time went to the Justice Department.

NASH. Did you have any employment prior to 1950?

MAXSON. I was a student from 1947 to the fall of 1949. From 1946 and early part of 1947, I was a plant supervisor in a plastics plant in New England. Prior to that time, I spent five years in the service. Prior to that time, I was an orchestra leader working for Music Corporation of America in New York. Prior to that, I was a student.

NASH. In addition to the compensation which you received from the FPC, Mr. Maxson, do you have any sources of income such as stocks and bonds?

MAXSON. I have no other interests.

NASH. Do you have any vested or unvested rights, insurance plans, retirement benefits or other financial arrangements arising out of previous employment or from services other than your own personal financing and except for your previous government service?

MAXSON. My only pension equity is my government plan, beginning with January 1956.

NASH. Do you have any relatives working in or for or representing in any fashion the oil and gas industry.

MAXSON. No, I do not.

NASH. Would you please relate the circumstances under which you first obtained employment with the Department of Agriculture?

MAXSON. I, upon graduation, made a tour around the country talking to law firms in Cleveland and other cities and in Washington and New York and selected the Department of Agriculture.

NASH. Do you recall the nature of the position you first held at the Department of Agriculture?

MAXSON. I was a member of a small informal tribunal which heard and decided disputes in the industry. I was presiding officer of the Perishable-Commodities Act, deciding disputes between shippers and receivers of agricultural commodities.

NASH. Was that position a civil service appointment?

MAXSON. Yes, it was.

NASH. Was it competitive service?

MAXSON. Yes. No, excuse me. All attorneys in government are excepted positions.

NASH. Would you please relate for the record the circumstances in which you first obtained employment in the Office of Legal Counsel of the Department of Justice.

MAXSON. I had had considerable contact with the Department of Justice because the Attorney General has responsibility of handling litigation with the

Department of Agriculture. I had tried many cases in the courts for the Department of Agriculture. Through the U.S. Attorneys office locally and through the Civil and Antitrust Division of Justice. A friend of mine at Justice knowing of a vacancy in the Office of Legal Counsel recommended me and encouraged me to come and apply.

NASH. At what lever did you enter the Department of Justice? Do you recall?
MAXSON. GS-13.

NASH. Can you relate to the record please, the circumstances under which you first approached the Federal Power Commission and obtained employment at Executive Director?

MAXSON. I received a call from Chairman Nassikas, the new chairman, he had been appointed in August. . . . was asked to come over for an interview. He explained that his interest in me was that at the administrative conference, I had been engaged in administrative reform . . . He was interested in improvement of this regulatory power.

NASH. Did you ever meet Chairman Nassikas before that phone call you just expressed?

MAXSON. No. At the time I had never met him. As far as I know, I know I had not been recommended to him by anyone. This was something on his own initiative. He was casting about for experienced, good people . . . who would know the regulatory process. I had been involved in the research, study, efforts of the Kennedy Administrative Conference to the U.S. established by the Congress in 1967. I didn't even know how to pronounce his name when he called me. I certainly didn't know of him.

NASH. Do you recall how long it took from the first contact by Chairman Nassikas respecting your possible employment to the decision made to employ you as Executive Director?

MAXSON. Three weeks. I know he was interviewing other people.

NASH. Just for the record, Mr. Maxson, did you ever receive, since your employment with the Federal Power Commission any, honorariums, gratuities, transportation expenses, trips, or any other thing of value—more than \$10 in value—from oil and gas companies, officials, or representatives?

MAXSON. No. I received no gifts or honorariums of any kind. I have traveled only once. Made a trip to our Boston regional office at the Bureau of Power to see if we could get better quarters from the General Services Administration. That's the only travel I have undertaken as official travel. I have received no compensation in the form of hospitality nor any other form.

NASH. Thank you. Isn't it correct that when you traveled to the Boston office the expenses were paid for by the Federal Power Commission?

MAXSON. That is right.

NASH. Since your commencement of employment with the Federal Power Commission as Executive Director, have you had any discussions or negotiations or implications from oil or gas company representatives respecting possible future employment.

MAXSON. None at all.

NASH. I take it that includes not even casual conversations over lunch or coffee?

MAXSON. That's correct.

NASH. Are you a member of the American Gas Association?

MAXSON. No.

NASH. Have you discussed your appearance here with anyone prior upon entering this room?

MAXSON. I advised Chairman Nassikas that I would come in. I didn't—this was as I got off the elevator leaving and he got on the elevator going up before I left the building to come over here. Just a once sentence advice that I was going over.

NASH. That was after you spoke with Mrs. Barrio?

MAXSON. I spoke with Mrs. Barrio yesterday and I spoke with the Chairman at 9:10 this morning.

NASH. Were you given any instructions explicitly or implicitly or any indication respecting what limits or constraints would be put upon your testimony?

MAXSON. Yes, I was advised by the General Counsel, yesterday, that the Commission by order had declared the oil committee reserve data collected under R405 confidential and had removed or had any court removed under the cloak of confidentiality. And that I was not to divulge those figures to the Subcommittee at this time.

NASH. Was that subsequent to your telephone conversation with Mrs. Barrio?

MAXSON. Right.

NASH. I take it that you spoke with two persons respecting your appearance here after you were notified and requested to appear?

MAXSON. I spoke with more than two, I just misunderstood, or wasn't listening to your first question.

NASH. Let me tell you what I am getting at rather than do it question-by-question, because we are just trying to make a record to find out all the circumstances. We would like to know, at this point, after you were requested to appear here, did you discuss with anyone the fact that you were appearing; and what was the substance of such conversation?

MAXSON. Mrs. Barrio called when I was out of the office. At the time I had returned her call, the General Counsel was in my office and she read to me a letter, which I assume is being sent to all interviewers, and indicated she wanted me here at 9:30 this morning, and I indicated that I would be here. I then related what the General Counsel had not heard me say on the telephone. I related the conversation to him. He gave me this advice about the cloak of confidentiality of the reserve data and he indicated that he would so advise everyone else who might be called. I then advised my secretary that I would be gone for the morning; I advised the boy running the xerox machine why I needed the documents I brought with me and when. I never discussed this with anybody. I only advised them that I was coming.

NASH. I take it then that means you did not advise anyone of the substance of your intended statement?

MAXSON. That is correct.

NASH. Now, let's backtrack a little bit prior to the time Mrs. Barrio called you and requested you to appear here this morning. Did you discuss prior to such time with anyone and, if so, please state their names, the possibility of providing all information or written documents to the Subcommittee or staff?

MAXSON. I did as you will recall, Chairman Nassikas responded to Senator Hart's letter advising of this investigation by seeking that two conditions be imposed on the interview being conducted. This condition—or these two conditions—proposed conditions were withdrawn only yesterday. Therefore, any conversations I have had with anyone have been only since the end of the Commission meeting which began at 8:30 yesterday morning and ended at 10:30 yesterday morning. The matter of these investigations were fully discussed by me with the Commission during that meeting. Subsequent thereto, I mentioned to Mr. Mangen, Mr. Vivian, Mr. Forquer, Mr. Kaufkin and Dr. Wilson that I expected that they would be called over for interviews. Correction, at the time I talked with him I didn't know we would be called over here and just assumed that you would be coming over there. When Mrs. Barrio called me, I learned the interviews were being conducted here. I did advise these people that they should expect a call from your staff. I did not discuss with anyone in any way what he was going to testify or what he should say.

NASH. Did you advise anyone respecting any limitations on what they should state or furnish the Subcommittee or its staff?

MAXSON. I discussed with the general counsel, after Mrs. Barrio called me, that the limitations he was imposing and I directed him to advise everyone in writing of that. By everyone I mean the appropriate parties of the Commission that might be called.

NASH. Do you have a copy with you of the writing you asked the General Counsel to furnish.

MAXSON. I do not. I haven't seen it myself yet.

NASH. Can you state the substance of either direction or request for FPC staff respecting the limitations placed upon their appearance here?

MAXSON. Yes. I was advised by him that he would prepare a very brief memo that he would address to the individuals likely to appear here advising them that uncommitted reserves data collected under R-405 are confidential by Commission order. Only the Commission or a court order can remove that confidentiality and order disclosure and to date the Commission has not done so. Therefore, the addressee will not reveal to the Committee in its interview, or otherwise, any of these data.

NASH. To the best of your knowledge, is that the only constraint placed upon the staff?

MAXSON. That is correct.

NASH. You mentioned the Commission meeting prior to the Commission according to the specifications in Senator Hart's letter asking to comply with interviews by the Subcommittee staff. Could you state for the record the substance of your communications to the Commission as well as the substance of the Commission's communication to you.

MAXSON. I advocated that the Commission keep faith with respondents who furnished these data since the respondents furnished the data under the promise it be kept confidential. By not, itself lifting the confidentiality classification but instead submit the documents to a court or to the Subcommittee under protest and with a request that they remain confidential by the receiver of the documents. Thereby imposing upon someone other than the Commission the duty of breaching this confidentiality.

(Missing? Off the record—near end—nothing recorded last 5 to 7 minutes of tape)

MAXSON. I don't think it was Texaco alone but rather than the general understanding of all respondents.

NASH. Now, when letters come into the FPC in response to a Commission order directing that documents be maintained and the letter complying with such request changes the terms of the order by saying, "No, we further request that it be returned or destroyed" what happens to such a letter, to whom was it circulated to determine whether the Commission will accede to the variance from the terms of the Commission's order?

MAXSON. No action was taken. The Commission has issued its order and barring a formal request for reconsideration of that order no undertaking would be made to decide whether they should change their mind.

NASH. Does Mr. Mangen, Mr. Joyce or anyone else have delegated authority from the Commission to vary the terms of the order requiring the maintenance of documents.

MAXSON. They do not.

NASH. Maybe we can proceed with the other documents you brought to us.

MAXSON. I brought with me a FPC news letter No. 19013, which made public the information computed from the confidential filing furnished to Mr. Mangen.

NASH. Thank you. We will make that exhibit No. 6.

MAXSON. Next is a penciled note from Mr. John Wilson, with his initials appearing at the bottom, furnished to me by Dr. John Wilson to Mel Kofkin, an employee of his division, making a request for data from the confidential records.

NASH. Let the record reflect that it is one page xerox, handwritten, undated, addressed to Mel Kofkin, signed by the initials J. W. I will make this as exhibit No. 6 of MAXSON . . . please No. 7.

In the course of your investigation or otherwise, have you ascertained the date of this letter, or not if you will, from J. W., who you describe as John Wilson, to Mel Kofkin?

MAXSON. No, I have not. I have taken a sworn statement from Mr. Kofkin in which he attempts to establish that date. I do not yet have the transcript from the reporting company.

NASH. This note states, "please see if we can determine from the BNG data (which supports this report) which produces (and which various) account for 3.4 trillion cubic feet of available reserves available as of mid-1972. There is another sentence which is not relevant to my question. Do you know which report is being referred to in this note or why J. W. needed the data?

MAXSON. I don't. I assume the intent of this note, the immediately preceding exhibit, the public report. My supposition is based on parenthetical expression "which supports this report." In other words he is asking Kofkin to get from BNG which producers and which areas account for 3.4 trillion cubic feet. The 3.4 trillion cubic feet figure appears in the text, the preceding exhibit and . . . which supports this report. He is talking about that published report he wants some specification; namely, what individuals companies account for this. . . .

NASH. Is it possible that rather than wanting data which supports the BNG released report, he wanted data to support another report which he had been compiling respecting the natural gas industry and that this data might have been, in his view, useful to the report he was compiling?

MAXSON. That could be. I do not know of that other report.

NASH. Doesn't BNG mean Bureau of Natural Gas?

MAXSON. Yes.

NASH. Do you know whether the information requested was supplied?

MAXSON. Yes it was.

NASH. How was it supplied? The 79 questionnaires were produced?

MAXSON. No. Well, I take it back. I do not know what he is asking for, really, from this note so I am not sure it was supplied.

NASH. Fine, thank you.

MAXSON. I do know that some composites were furnished to Mr. Kofkin in response to this request.

NASH. And your next document, pursuant to Mrs. Barlow's request?

MAXSON. Is a memorandum from Melvin Kofkin to Dr. John Wilson dated April 6, 1973, entitled, "Concentration Ratios, Large Producers Prove National Gas Available for Sale." This was furnished to me by Dr. John Wilson.

NASH. Thank you. We will make that Maxson Exhibit #8. And, if I will be permitted, we will take a three minute recess while I adjourn to the restroom.

Back on the record. Maxson Exhibit #8, sir, is dated April 6, 1973, and it apparently is a memorandum from one Melvin Kofkin to the chief of the Division of Economic Studies. Who is Melvin Kofkin?

MAXSON. He is an employee of the Office of Economics in Dr. Wilson's Division, which is the Division of Economic Studies. In other words, Dr. Wilson is the division chief on one of three divisions in the Office of Economics. . . . I believe he is a statistician by discipline.

NASH. This memorandum indicates that the Office of Economics, through someone, attempted to obtain access to the 79—to the data underlying the 79 questionnaires—which we have been discussing—for purposes of computing concentration ratios, the large producers prove natural gas reserves available for sale. Basically, I paraphrased . . . Oh, I am sorry.

MAXSON. No, that is alright. . . .

NASH. We will find you another copy of Exhibit #8. Basically, I have paraphrased the first sentence. Based upon your investigation, or otherwise, do you know the purposes for which the Office of Economics desired the calculation of the concentration ratios for the 4 and 8 largest producers of natural gas?

MAXSON. My understanding from Dr. Wilson is that the Office of Economics was participating in proceeding on the antitrust issue. He was appearing as a witness, and he wanted these data to prove a concentration of control. . . .

NASH. Could you repeat the last half of your sentence. You dropped your voice a little bit and I didn't get it all.

MAXSON. This understanding may be incorrect. But, I understand from Dr. Wilson that he was participating in a proceeding as a witness on the antitrust issue. That he was attempting to establish a concentration of control of uncommitted reserves in a relatively few companies.

NASH. Did he endeavor to publicly release the totality—on a company by company basis—of the reserve data or did he desire to use in his testimony an aggregate of such data to establish concentration ratios?

MAXSON. My understanding is that he initially requested an aggregate; but then either found or alleged errors in the materials furnished him and thereby requested access to the individual company files.

NASH. Did he request access in order to verify the accuracy of the material and correct it or did he seek access so he could publicly divulge the data underlying the 79 questionnaires?

MAXSON. I do not know what his intention was. He propted to seek access not to know what the individual company's situation was, but rather only to verify what he alleged to be an error in material furnished to him.

NASH. Was he provided such access?

MAXSON. He was not.

NASH. Who denied him such access?

MAXSON. Mangen, the custodian of the documents.

NASH. Did he point out why?

MANGEN. Yes, because the Commission had directed Mangen as custodian to keep these figures confidential.

NASH. Was this a communication other than the one we read from the order?

MAXSON. It was an oral communication not to Dr. Wilson personally, but rather to Kofkin. Wilson asked Kofkin to get the documents and Mangen told Kofkin that he could not have them.

NASH. . . . let me ask you another question just to make sure the record is not confused. I think it is, or else I am. Did the Commission issue any oral or written communication respecting the maintenance of the documents—being confidential and kept away from Mr. Wilson or the Office of Economics' people—other than the directive in the order requesting the companies to supply the data.

MAXSON. It did not.

NASH. Thank you. Does that mean that to the best of your knowledge that Mr. Mangen concluded that Mr. Wilson would have to make do with the material already provided and that he would not give him additional access?

MAXSON. That is correct.

NASH. Does your investigation reveal whether at that time the documents were ripped up and given to Mr. Vivian for purposes of destruction?

MAXSON. I have not yet established at what time that occurred but I am sure that it occurred.

NASH. Do you know whether . . . do you know the substance of the statement made by Mr. Mangen to Mr. Kofkin when he denied access to such data?

MAXSON. No I don't. That again, is something, it seems to me, key to the inquiry and something I hope to determine. As I understand Mangen, he first told Kofkin, and these were oral communications, not in writing, first told Kofkin that the data was confidential and that he could not furnish anything beyond the aggregate. After furnishing the aggregate, Kofkin told Mangen there were errors therein and Dr. Wilson has been to me inconsistent in that first he said there were errors on the face, later said he could not reconcile the information provided with the published report, which I have already entered as an exhibit. However it was, there was an allegation of error in the figures and a demand for the original confidential data purportedly to eliminate the errors and a denial first on the ground that it was confidential and then at some later period, which Mangen represents to be a respectful period of waiting, to see whether there was no further demands upon him, he ordered the documents destroyed and told the Office of Economics that he had ordered them to be destroyed.

NASH. Do you know whether Mr. Mangen related the Office of Economics request for access to the data to anyone else? In other words, did you clear with somebody else his denial?

MAXSON. I do not know. I think not. I think he just understood from the conversations to Mr. Kofkin that Wilson was then going to his boss, Thomas J. Joyce, to get Joyce to overrule Mangen. So, Mangen did nothing else. . . .

NASH. Do you know after Mangen made the decision denying access to Mr. Kofkin whether he told anyone else of his decision?

MAXSON. I do not know. It is entirely possible he did.

NASH. Do you know whether—I take it then you wouldn't know whether someone else concurred or disagreed with such decision.

MAXSON. I do not know.

NASH. The last paragraph of Maxson Exhibit #8 states that Mr. Mangen has indicated that all records were destroyed last week and it is impossible to verify the source of error. Now this is dated April 6, 1973, so by last week I suppose we are talking either about the very last week in March or the very, very beginning of the month of April. Do you know whether in fact the records were destroyed at such time?

MAXSON. I do not know. I know that the records were delivered for destruction, were mutilated, and later recovered and reconstituted and upback together with scotchtape. I do not know when that occurred.

NASH. You do not know when the records were mutilated the first time?

MAXSON. I do not.

NASH. Do you know when they were delivered to the security officer?

MAXSON. I don't know.

NASH. How long have you been conducting your investigation?

MAXSON. Since March 21 . . . excuse me . . . May 21.

NASH. Did you interview the security officer yet?

MAXSON. Yes.

NASH. Did you interview Mr. Mangen yet?

MAXSON. Yes.

NASH. Did you interview Mr. Kofkin yet?

MAXSON. Yes.

NASH. Did you interview Mr. Joyce?

MAXSON. No.

BERNIE. Did you interview Mr. Wilson?

MAXSON. Yes.

BERNIE. Did you interview any commissioners?

MAXSON. No. There are varying responses to my questions from the people I have interviewed. Kofkin claims he was told February 27 that the documents had been delivered for destruction. This seems patently an incorrect date be-

cause thereafter they did furnish presumably extracted from the original data and, upon inquiry, Kofkin could not explain his reaction to that. He wasn't surprised.

BERNIE. Was Mr. Kofkin relying solely on his memory or did he have notes, logs, or other material upon which he refreshed his recollection?

MAXSON. He had a—his calendar with notations on it. He sought to establish the dates he gave me from that calendar.

BERNIE. Did you ascertain since you learned of Mr. Kofkin's allegations whether or not Mr. Kofkin was lied to by Mr. Mangen or anyone else telling you at that time that the data was destroyed?

MAXSON. I have not ascertained yet whose dates are right . . .

BERNIE. For purposes of which proceeding did Dr. Wilson want this data?

MAXSON. I'm not sure. I understood it to be the Beloc case. That's already decided. . . . The record is complete in that one. So, I really don't know which case he is talking about.

BERNIE. Is the Belco the recent decision of the Commission on May 30 wherein producers were accorded 73% rate increases?

MAXSON. That is the case. I am not sure your characterization of the result of that case was—

BERNIE. . . . I didn't mean to mis-characterize it if I did. I apologize if I did.

MAXSON. No. No. That was recorded in the papers as such—a 73% increase. . . .

BERNIE. Do you know the dates of Mr. Wilson's testimony in that proceeding?

MAXSON. No, I don't.

BERNIE. Do you know whether the material he was denied access to was requested prior or subsequent to his testimony?

MAXSON. I don't know.

BERNIE. Do you know whether it was requested prior or subsequent to the filing of the briefs?

MAXSON. I don't know.

BERNIE. Was that proceeding the proceeding which you had to make a decision as Executive Director whether to let the Bureau of Economics view or the Bureau of Natural Gas views be set forth in that case?

MAXSON. It was not The Office of Economics wanted to present a witness and none of the bureaus or office objected to their presentation on their own.

BERNIE. What was the position of the Bureau of Natural Gas with respect to the application for approval of rates by the companies applying for the approval of rates and proceeding?

MAXSON. I don't know.

BERNIE. What was the position of the Office of General Counsel?

MAXSON. I don't know.

BERNIE. Under the terms of the Commission order, directing that the documents be maintained confidential, how did it come about that Mr. Mangen became custodian? Was it in that same order or was it a different Commission order?

MAXSON. It was in that order.

BERNIE. If Mr. Mangen was the custodian and if the authority for complying with the Commission's order was vested in Mr. Mangen, how could Mr. Joyce have overruled Mr. Mangen's decision not to provide information to the Office of Economics?

MAXSON. He could not have. He could have worked out an arrangement whereby they furnished to Dr. Wilson. In other words, he had authority to direct Mangen what extractions, composites, aggregates and computations he might make from these things so long as they did not violate the confidentiality of the document. If Mangen was not persuaded that he could give more than he had given, Wald might well come to Joyce and convince him that he couldn't appropriately give more than he had given Joyce. Could appropriately talk to Mangen and say you are imposing too great a constraint here, we can do this under the confidentiality order, we can furnish more than we can furnish the . . . go ahead and give it to them.

BERNIE. It appears to me then that Mr. Joyce would make the final decision within the Bureau of Natural Gas whether the confidentiality order was being violated or not.

MAXSON. Yes, I think so. Knowing first all of his responsibility over the work being done by Mangen or others by way of extractions, composites, and aggregates, further his personality. He is the boss. Mangen is an employee under him.

BERNIE. When the Office of Economics desired some data initially, did Mr. Mangen check with Mr. Joyce respecting whether it should be provided and if so, in what form?

MAXSON. I don't know.

BERNIE. While Mr. Mangen advised that the data had been destroyed either at the end of February or the end of March, whatever the date may be, did Mr. Mangen confer with Mr. Joyce indicating that the Office of Economics wanted to recheck the data?

MAXSON. He may have. I don't know. I am sure, I have a great deal of conviction behind this answer, that Mangen did not tell Joyce that he had told OEC or had in fact destroyed the record.

BERNIE. If you didn't interview Mr. Joyce yet, upon what basis do you have such a strong conviction?

MAXSON. I am sure, knowing Mr. Joyce, that the first he heard of all of this was May 21.

BERNIE. Do you have any additional documents you are producing today?

MAXSON. No. The next is a note from Haskell P. Wald, a penciled note, to Dr. Wilson dated March 22 indicating that the Office of Economics had received from . . . had received the requested data. Wald would be interested in the computations that they might make from that.

BERNIE. We'll mark that Maxson Exhibit No. 9 for the record and the record will reflect that it is a single sheet of paper dated March 22 addressed to Mr. Wilson, with the initials HPW ascribed thereto, with the name Haskell P. Wald, Chief, Office of Economics, typed on the bottom.

MAXSON. I received that from Mr. Kofkin.

BERNIE. Mr. Wald in this letter advised Mr. Wilson, "At least we have an answer to our request on uncommitted reserves. I would be interested in the percentages." Now, do you know whether this was the first answer or the second answer?

MAXSON. I don't know. But, I suspect that's the first answer. It indicates some irritation about its having taken so long to get it.

BERNIE. I previously understood that Mr. Wald became involved after they wouldn't verify the accuracy of the concentration ratios. Now I am led to believe, I just want to make sure, you know, what the facts are, that Mr. Wald was involved even prior to receipt of the first concentration ratio figures?

MAXSON. I doubt that he was involved before the receipt of the first. I think this note speaks of that first. I'm guessing.

BERNIE. I see, I see, I see. In other words, it took a long time to furnish the first figures which Mr. Wilson alleges have been erroneous. Is that the point?

MAXSON. Right.

BERNIE. Do you know the spacing of time of how long it took?

MAXSON. No, I don't. I haven't established yet when, except as it appears in these documents already, when the initial request was made of BNG to furnish some of the concentration ratios.

BERNIE. Do you know whether March 22, upon which date Mr. Wald sent this note to Mr. Wilson according to the exhibit, Mr. Wilson had already testified in the Belco case?

MAXSON. I don't know.

BERNIE. Do you know whether briefs were already filed?

MAXSON. I don't know.

BERNIE. Do you know whether the documents existed on that date?

MAXSON. The documents existed on that date.

BERNIE. Thank you. Do you have any additional exhibits?

MAXSON. As I previously indicated to you, in the course of my investigation, I am now having a transcript made, a sworn statement by each of the witnesses. Two of these we have received from the recording company . . . from Mr. Larry Mangen and from Mr. George Vivian.

BERNIE. That would be very helpful. We appreciate receiving it. We'll mark it Maxson Exhibit No. 10 with respect to the Mangen statement which apparently consists of 16 pages compiled by the Columbia Reporting Company, dated Tuesday, June 12, 1973, and will indicate Maxson Exhibit No. 11 to be the stenograph transcript of the interview of George B. Vivian also dated June 12, 1973, Tuesday, apparently consisting of pages of 1-7 on the stationery of the Columbia Reporting Company. I think we won't take your time right now to review or ask you any questions about it. If we have the opportunity, we might do that before you leave today. Or, if not, we might review it and if we think it is necessary to ask any questions, we'll ask you whether you would not accommodate us.

MAXSON. . . . I would be pleased to return and I would prefer that.

BERNIE. Surely.

CHUCK. Yes. If I may just get this on the record with respect to all these documents we've had an opportunity to look at briefly and there may be further questions that wouldn't be too much of an inconvenience to you, why, after we have had an opportunity to review them, we may want to ask you some more questions with respect to . . .

MAXSON. Now, those that I presented are all of the piece of papers, all of the documents or material things that I have acquired in my investigation of this matter. I first learned of the matter on May 21 and since that time I've been talking to these people and only recently started the process of making sworn statements and collecting documents. But, that is everything I—

BERNIE. Yes. Now, Mrs. Bario requested you as Executive Director to bring with you all writings of any nature whatsoever, including diaries, logs and records, telephone conversation referring or relating to use of disposition of the documents involved in the alleged attempted destruction. Would you state for the record the manner in which you went about applying such request?

MAXSON. I took out of my desk a pile of documents which I had in a pile marked Mangen investigation. I made copies this morning. Xeroxed copies, 6—

BERNIE. Did you search Commission files to see whether if there were other documents relating to use or disposition of the questionnaire?

MAXSON. I inquired of the central file section . . . whether they had anything involving any of these communications between the bureaus and offices relating to the Office of Economics' request for information from Mangen or anything from the Chief of the Bureau of Natural Gas to Mangen or to the Office of Economics whether there was anything in the Office of General Counsel's files relating to this matter and whether they had any direction from the Commission other than the order itself. I was advised that—

BERNIE. This was the central files you asked?

MAXSON. Yes.

BERNIE. Who did you ask in central files?

MAXSON. I forgot the name. There was one man there that handles all that—

BERNIE. Did you ask any of the bureau or division chiefs to search their files to look for material that might be available in their offices?

MAXSON. I did not.

BERNIE. Did you ask any of the persons allegedly involved as reported in the newspaper in this matter that supplied you with all relevant material?

MAXSON. Mr. Kofkin only because he is the only one I had a chance to talk to since late yesterday afternoon when I received Mrs. Bario's call. Early this morning had the—

BERNIE. Is it fair to say at the present time you do not know whether you produced all writings of any nature whatsoever including diaries, logs and records and telephone conversations referring or relating to use of disposition of the documents involved in the alleged attempted destruction?

MAXSON. I am sure that's correct. There is an obvious possibility that there are all kinds of things I do not have at this juncture or have been unable to acquire since late yesterday, early this morning.

BERNIE. Can we respectfully request, Mr. Maxson, that you endeavor to comply to the telephonic request of Mrs. Bario yesterday at your earliest convenience giving due regard to your other Commission responsibilities and advise us when you have completed the task so that we may have them made available to us the additional relevant material if any that might be turned up. And, might I add you might want to also review the letter from Senator Hart to Chairman Nassikas where he similarly in that letter made a request for relevant documents. Two days ago with Mr. Forquer yourself and Mr. Bangert and myself you indicated that a Commission file search would be commenced in compliance with that request.

MAXSON. Now, I want to avoid the inference that I have not complied with the request intentionally.

BERNIE. We fully understand the lack of available time to do the full job required. . . . We are very grateful for the documents we have today and we are certainly going to accord you as much additional time as you need. There is no inference intended that we didn't get everything requested because of any willful act. We fully understand the immense magnitude of the files of the Federal Power Commission, the large number of people that would have to be queried in order to responsively comply. We are certainly happy to accord you as much additional time as you need to know that you have complied.

MAXSON. I understand. I was able to make the request of central files only because of our discussion the other day since Mrs. Bario's call. . . . I talked to Kofkin and that is all I didn't ask when I talked to the Chairman at the base of the elevator, and the General Counsel for each . . . the call from Mrs. Bario yesterday. I did not at that time make any requests of them for records. But, the only other two other pieces of paper that I have, the letter you mentioned from the Senator and the response from the Chairman, . . . I shall be pleased to continue my investigation and I will try to acquire all of the documents I can find of any form, notes of conversations, notes of telephone calls, all writings of any kind that I can find. I will be pleased to furnish to you.

BERNIE. Thank you. Did any discussions take place since our meeting of June 12 that I just referred to respecting the extent of compliance with Senator Hart's letter for documents?

MAXSON. None of it was discussed with the General Counsel after you left my office the other day. The matter was discussed with the Chairman that evening. The matter was taken up at a Commission meeting. . . . There were two discussions with the Chairman both with the General Counsel present and the matter was the subject of a special Commission meeting beginning at 8:30 Thursday, the 14.

BERNIE. And the substance of the discussions were?

MAXSON. The discussions were, what was the Commissions response to in light of, one from the Senator announcing the investigation and requesting cooperation from the Commission, and the Chairman's response . . . June 12. In light of that exchange of correspondence, and our discussion relate to the Chairman, what were we to do then . . . we met that request by deciding how we would respond to the position you took in our meeting.

BERNIE. Was the decision unanimous?

MAXSON. It was. Three members participated.

BERNIE. What procedures and practices exist, if any, respecting the monitoring of telephonic communications, either of FPC telephones or homephones, of FPC employees?

MAXSON. There is no monitoring of any kind. We went to the extreme of asking the military services signal corps personnel or some communications personnel, this was about two years ago, to come in and survey the Commission meeting room, the Commissioner's offices, my office, the general Commission area to assure that there was no bugging of any kind or surveillance of any kind being practiced.

BERNIE. Did the Commission monitor on its own behalf other employee phones?

MAXSON. It does not and it has a regulation prohibiting any monitoring of any kind.

BERNIE. What type of procedures exist respecting the opening the of mail addressed to specific FPC employees?

MAXSON. All mail is opened by the mail room, all incoming mail, except Congressional or other VIP correspondence, that's something from the . . . addressed to the chairman cannot be opened. That's delivered unopened to the Chairman's office. Congressional mail even though it is just a referral of a job applicant and an attachment to a resume, it all goes to the Chairman's office. All of the mail is opened in the mail room and directed to the recipient of the from the mailroom.

BERNIE. Is all Congressional mail opened in the Chairman's office?

MAXSON. It is. There is a possible exception. That's where the Congressman writes to Thomas J. Joyce . . . directed to him opened, Opened by the mailroom and sent . . .

BERNIE. If the Congress of the United States, or any member thereof would address a letter to the Commissioner Rush Moody, would that be directed to the Chairman's office?

MAXSON. No. That would go to Rush Moody. And, indeed, that is another exception. That would be unopened.

BERNIE. If the Congress of the United States or any member thereof would address a letter to Dr. David Schwartz or Dr. John Wilson or Dr. Haskell Wald, would that mail go unopened to such persons or would it go to the Chairman's office and be opened in the Chairman's office?

MAXSON. Neither one. It would be opened in the mailroom and transmitted directly to Dr. Schwartz.

BERNIE. Is there a written regulation respecting that?

MAXSON. No there isn't.

BERNIE. Are you basing your statement upon what facts?

MAXSON. Early in my tenure, I was disturbed about the way the mail was handled, incoming and outgoing. So, I got together with then General Counsel Gordon Gooch and set up the Congressional mail procedure . . . getting answers to the Congressional mail. At several meetings with the mailroom people we told them this is the way we wanted it done.

BERNIE. This is all oral instructions . . .

MAXSON. There is . . . no administrative manual instruction.

BERNIE. To the best of your knowledge, your statement respecting Congressional mail procedure is still in effect?

MAXSON. Yet it is.

BERNIE. Have any exceptions been made respecting mail to particular employees to that general rule?

MAXSON. Not that I know of. There has been a break down in the system when discrimination of complaint when all the mail coming in from Congressmen such as . . . character reference from Senator . . . it was all being opened before it got to the Chairman's office by some of the mailroom . . . It shouldn't have . . . occasional breakdown . . .

BERNIE. Would you give us the background of information about the employment and duties of security officers of the FPC if there are any?

MAXSON. Every agency is required under the Executive Order, used to be 1045, I don't know what it is now, to designate the single security officer who would have access to graphic codes, combinations of the security safes and the duty of being custodian of all classified documents. And classified documents . . . most of those that we hold . . . relates to emergency planning action exercise. Some we receive are State Department communications.

BERNIE. Could you raise your voice please?

MAXSON. Yes.

BERNIE. Thank you.

MAXSON. Some we receive are State Department communications relating to development in the oil producing countries. . . .

BERNIE. Yes. Would Commissioner qualify directing confidential status be maintained in the response to questionnaires being national security documents?

MAXSON. No it would not. Unfortunately, we do not have, we have a very elaborate classification system under the National Security classification promulgated by the National Security Council. We have no regulation at all in the handling of other confidential or administrative or confidential material.

BERNIE. How many security officers exists at the Power Commission?

MAXSON. One.

BERNIE. Who is he?

MAXSON. . . . George B. Vivian.

BERNIE. Does he have any additional responsibilities?

MAXSON. Yes. He is the number two man in the Office of Administrative Operations.

BERNIE. Which means?

MAXSON. I don't know.

MAXSON. The Office of Administrative Operations has responsibility for the general housekeeping of the agency; that is, procurement of furniture and supplies, maintenance of equipment, supervision of the printing shop and central files.

BERNIE. And what is the general practice respecting use and disposition of material received by the Federal Power Commission?

MAXSON. Generally, the rules of the archivist, publisher of the Federal Register, governing custody and disposition of official records. . . . In our own case with respect to anything that's confidential, other than the national security formal process, anything that's confidential such as these data that are subject to this inquiry are not to be destroyed. Even after the use has ceased, we have a hard and fast rule that they are to be maintained until the Chairman himself signs off. . . . there are some records from a 1967 proceeding, with some confidential collection from 1967 proceeding. Under lock and key. If the custodian thereof foresees no possible further use, he can have them destroyed only if the Chairman himself signs out. This is a rule imposed by the present Chairman.

BERNIE. How frequently are custodians reminded of this rule and its the rule written or oral?

MAXSON. It's an oral rule and there have been two custodians since this Chairman came in.

BERNIE. Who were they?

MAXSON. Peter Hryskamich. No, excuse me. There have been three preceding Mr. Hryskamich. There was Mr. Richard E. Kane, now retired, and following Mr. Hryskamich is the incumbent Mr. Frank Vivian . . . Those three have been instructed by me that that is the rule to be observed religiously.

BERNIE. Now, what about investigative officers and custodians leaving aside the instructions to security officers, are they aware, and have they been made aware of the rule of . . .?

MAXSON. They are when they are given that assignment. Wherever we designate a custodian of records, we make sure he knows what his responsibilities are.

BERNIE. Now, you say we make sure. Who would we be and how would that be done? Orally or in writing?

MAXSON. It might be both. In the instant case, apparently Mangen had been designated in the Commission order by the upon the suggestion of the Bureau of Natural Gas, because he had similar responsibilities previously in some other proceeding—

BERNIE. And, when he was designated investigative custodian-officer, who apprised him of the Commission rule respecting requiring the Chairman's approval before documents could be destroyed?

MAXSON. In this case, it was Mr. Joyce.

BERNIE. Mr. Joyce advised Mr. Mangen such rules?

MAXSON. That's right.

BERNIE. When did that occur and was it orally or in writing?

MAXSON. I'm not sure whether there was any writing. I know it was done orally at the time of the update order about R-405 September 12, 1972. I'm not sure what the experience was at the time of the original order or indeed whether Mangen had any—

BERNIE. How do you know that Mr. Joyce advised Mr. Mangen that none of the material should be destroyed unless approved by the Chairman?

MAXSON. I happened to be in on the discussion at that time on what they were doing, that the occasion for the discussion was to distinguish this process from the National Gas Survey process. That is, this procedure varies from that. Two separate gas reserves studies.

BERNIE. Maybe you might diversify for a moment and tell us what the rules are respecting data received pursuant to the National Gas Survey vis-a-vis returned to the companies or destroyed?

MAXSON. I have only a peripheral knowledge of the thing because we deliberately and rather emphatically took the process away from the Commission, placing ourselves at arms length with the national data collection process to assure its integrity. As I understand it, the companies were ordered to produce their records in their own offices for the inspection of auditors. Some of these auditors were not employees of the Commission. Rather, they were special—and mostly academic types were hired by us on a per diem basis to perform this auditing. Most of them were technicians from the Bureau of Natural Gas, geologists, petroleum engineers—were sent to the company offices of those companies to be included in a sample designated a statistic validation team. They extracted from the company records and put on worksheets gas reserves data they telephone the totaled reserve estimates by the—to Mangen who in turn committed them to some form he prepared from—submitted them to the independent accounting agent. The worksheets prepared by the auditors in the field were then sent to Mangen who checked the results—against the subsequently received worksheet. He validated the results telephoned to him and relayed to the independent accounting agent and then sealed the worksheets in an envelope with a piece of scotchtape, signed his name on the scotchtape and placed the documents in the safe—where they still are.

BERNIE. Could we go off the record for a moment.

[Discussion off the record.]

BERNIE. Now, with respect to the National Gas Survey and data, are you suggesting that one of the data was reviewed and collected had been destroyed?

MAXSON. That's correct.

BERNIE. Has all data utilized in this survey been transmitted to the Federal Power Commission for retention?

MAXSON. I really don't know. I just assumed it was.

BERNIE. Is it possible that companies always supply the data or that auditors went into company offices to look at data to satisfy but did not take possession of data?

MAXSON. That's possible. Indeed, you know, the likelihood is that the company could or could not produce something and that the——secondary evidence of it and of correspondence relating to this, you know, that's just the probability but I have no indication of any sort that that is the case.

BERNIE. Who is the custodian of the data received from the companies pursuant to the National Gas Survey?

MAXSON. The——I believe was the independent accounting agent. I really should defer the power to Dr.——

BERNIE. Sure. We certainly respect that.

MAXSON. I did not participate in any way——

BERNIE. Based upon your comparative investigation of R-405 and the National Gas Survey, as conducted by Mr. Mangen, and if you don't know this, please state it as well, but I think I have to ask it for the record, do you know whether anyone checked Mr. Mangen's computations or conclusions respecting what the reserves available were?

MAXSON. Well, then check the latter cases the later case, R-405 was under his supervision and direction. The gas survey I don't know about, but I would assume that Dr.——is involved in that . . . I know of just expanding my prior holly inadequate answer, I do know that we now have worksheets of the field auditors in our custody rather than in the independent accounting agencies' custody.

BERNIE. When did you take possession of them?

MAXSON. These were mailed in as the audits were completed . . . companies. And, I really can't establish the period of the audits. It is probably beginning a year and five or six months ago, ending six months ago, period of the audit exercise.

BERNIE. I note that Lawrence A. Mangen was a reserve team supervisor for the National Gas Survey. Do you know what that means?

MAXSON. These auditors went out in groups to the company offices——

BERNIE. Does that mean that the group would then telephone into him what their conclusions are respecting reserves and he would write it down on the form compilation?

MAXSON. I believe that was the case. In every group except that that which he headed——

BERNIE. Do you know what would happen to the data upon which the auditors concluded reserves or X and then telephone it to Mr. Mangen? Did they take that data with them that Mangen wrote to him the properly X figure?

MAXSON. I don't know. I know that they took with them worksheets which they themselves prepared——

BERNIE. Apart from the subject?

MAXSON. Correction I'm sorry. Take with them. What I meant to say was that when they concluded their work of X company, they took all the worksheets, put them in an envelope and mailed them to Washington. I don't know who the recipient was——

BERNIE. Apart from the subject matter of this inquiry, namely, the data received from 79 gas producing companies, are you aware of any other document or data destruction within the Federal Power Commission?

MAXSON. I'm, I don't know of any other confidential data destruction, obviously, there is a . . . One of the——

BERNIE. According to the newspaper, Mr. Mangen states this has happened before and he cited some 1970-type study and another related to the Southern Louisiana case. And, the same newspaper article, namely, the Evening Star, also cited data destroyed in connection with National Gas Survey. Do you have any knowledge of what those two alleged destructions relate to?

MAXSON. I do not. My inquiry so far indicates that there was no destruction even in—or South Louisiana or the gas survey. I don't think that this procedure relied upon by Mr. Mangen and justification for his action in fact exists. I don't think there was that procedure. I don't think there was any collection of data and destruction of them——

BERNIE. Do you know upon what information Mr. Mangen apparently relied upon to indicate to him that indeed such destruction had taken place in the past?

MAXSON. He represents that the three investigators in the previous R-405 had participated in the earlier cases and this was his understanding from them.

BERNIE. What is the general practice and oral written rules within the Power Commission respecting the return of material to companies that supplied same to the Commission?

MAXSON. I'm. Where the investigator goes to the company or where the company is instructed to bring the records to him, the practice is to avoid the handling of confidential company documents. And, merely to extract from the company documents the information needed and then immediately at that sitting return to the company the information.

BERNIE. When the material is mailed or otherwise brought to the Commission offices, what are the rules, practices, or procedures respecting return of same?

MAXSON. If it is mailed in, we actually receive the documents so that we at some point have custody outside their presence. We retain, not destroy them if it is confidential. If it is confidential and they bring it in, we don't want it. We say, alright in your papers you give me what we want and you can and take your papers back with you.

Q. Are there written rules and regulations respecting this?

A. No. Each would rely upon the basis on the order directing the collection of the data.

Q. On what basis, if you know, did companies complying with R-405 rulemaking condition compliance upon either destruction or return?

A. I don't think anyone *conditioned* his responses on that. If they urged that, we wouldn't accept the condition. If someone insisted that he would give it only under this condition and an acceptance by us of the condition, we would subpoena the records. We wouldn't accept the condition.

Q. Upon what basis and upon what authority did Mr. Mangen comply with the company's request for the return of the data?

A. He stated to me that he complied *at once* for Humble, now Exxon. Their response was returned to them after something like five telephone communications from them—the first four, he was still using the data, and he said, "I cannot return it at this time," and he finally did return it to them. But I understand that's the *only* company he gave the stuff back to.

Q. When he was named custodian and Mr. Joyce, in your presence, told him that nothing could be destroyed save with the approval of the Chairman of your Commission, was he apprised of any rules or regulations respecting whether he could *return* it to the company rather than *destroy* it?

A. No, no other special term. It was merely an insistence that he collect these things and keep them and retain them in confidential status.

Q. I take it, then, he was told to retain and maintain the documents after their receipt?

A. He was told to do that, and he had to maintain them, that is, that he not give them back.

Q. Upon what basis, if you know, did Mr. Mangen return some data to Humble?

A. He represents to me that his understanding of what was told him was that we were to follow the procedure, not in the gas survey, but rather, in the original R-405 data collection. His understanding of the procedure in that data collection was to return the documents if the company wanted them back; to destroy them when the use had finished if they didn't want them back . . . It's a little hard to reconcile the order and the advice given to him, and his understanding.

Q. Do you have any information respecting whether prior to Mr. Mangen's *return* of the data to Humble since there were about five telephone calls prior to his doing such, he advised or discussed with anybody Humble's request for the return of documents?

A. I don't know whether there were any discussions. He states that there were none. He said he did not consult anyone either in the office of General Counsel or BNG or elsewhere. I asked specifically whether he consulted the investigators in the earlier proceedings. He said he did not.

Q. He *did* tell you, did he not, that he consulted the investigators in the earlier proceeding respecting whether he could *destroy* documents?

A. That was apparently at the outset when he undertook his chore. He inquired of them how they handled the prior data collection and had some conversation on that subject.

Q. Who was authorized to bring documents to the security office for their destruction?

A. There is no authority at all to do that, either in writing or orally. The instruction of all people who handle confidential data, other than national security material, and the instruction to the security officer with respect to the handling of everything other than national security material is that nothing be destroyed unless the Chairman approves its destruction.

Q. Is that on oral or written instruction to the security officer?

A. Oral.

Q. Who gave it to the security officer?

A. I did.

Q. Do you recall when?

A. It's been reaffirmed several times since May 21, but, ah . . . no, I can't establish when we had discussed this kind of thing.

Q. In rough parameters, might the possibility be the year 1969, 1970, 1971, or 1972?

A. All three, as each new security officer came on. When I arrived, it was Kane, and I remember discussing the procedures with him. When Kane was succeeded by Hryskanich, I remember discussing it with him; when Hryskanich was succeeded by Vivian, I discussed it with him.¹

Q. I see. Do you recall roughly when Mr. Vivian became security officer?

A. A year ago.

Q. That would be approximately?

A. June of '72.

Q. June of '72, and you believe that some time subsequent to June, 1972, you for the first time apprised Mr. Vivian of his responsibilities?

A. At that time.

Q. In the normal course of conducting your affairs, would you have done that at the *outset* of his appointment, or—

A. Yes. Yes. And that was the case here. . . . As I recall, his predecessor was taking advantage of the retirement bonus, left in June, and Vivian took over from him at that time. I discussed with him how he was to maintain his register of classified documents.

Q. With respect to the destruction of classified documents, does that require the approval of the Chairman?

A. It does, even though there are some exceptions. For instance, to maintain the integrity of cryptograph codes, the State Department orders that upon receipt of this piece of paper with the new code, the old one must immediately be destroyed. The Chairman does not sign off on that one.

Q. Apart from that exception, then, is it fair to state that the instruction from Mr. Vivian are that he is to destroy nothing save for that approved by the Chairman?

A. Right.

Q. To the best of your knowledge, based upon your investigation of or otherwise, has Mr. Vivian destroyed or attempted to destroy *any* documents *ever*, save for those documents approved to be destroyed by the Chairman?

A. I have no personal knowledge—in answer to your question, no. I have no personal knowledge of that. Nor do I know of any occasion where the Chairman has directed destruction. There may be some . . . I don't know of.

Q. Does that suggest that since Mr. Vivian became security officer, he neither destroyed nor attempted to destroy *any* documents but for the 79 questionnaires—the responses to the 79 questionnaires?

A. I know of none (?) to the contrary. I'm only saying that I don't have personal knowledge; it doesn't go through me.

Q. I see.

A. He undoubtedly has destroyed classified documents both of national security and non-national security. I just don't have any knowledge.

Q. When he is authorized by the Chairman to destroy data, do you know how he goes about carrying out that direction?

A. No. I know only of what he told me about *this case*, where apparently, he—this agency doesn't have a shredder or incinerator and he takes it to some place that does. At the time that Mangen delivered to him the documents involved in this investigation, he was negotiating with the GPO. He was *there*, so destroy the documents.

Q. Since you became Executive Director of the FPC, did FPC *ever* have or does it *now* have a shredder?

A. It does not and never has had.

Q. Does it have any other destructive device?

A. No, it doesn't.

¹ Albares said there was no security officer in old building. See *Albares Interview*, p. 31-2. BNG moved to new building on May 7, 1973, or thereabouts.

Q. How frequently, if you know, does Mr. Vivian depart from the premises for the purpose of securing destruction of data—is it as needed, or periodically?

A. It's as needed, and how often that might be, I have no idea. In my conversation with him, he indicated that he had from time to time used such-and-such incinerator.

Q. Which one?

A. Well, I think one time he'd taken materials to Arlington County—the county dump has an incinerator which is somewhere near his home.

Q. On the occasion of the attempted destruction of the data underlying the 79 questionnaires of the 79 producers, what facility did Mr. Vivian attempt to use to destroy the documents?

A. I don't recall, but he *does* relate that in his sworn statement.

Q. It doesn't take much to know that it was probably an error because he was told they had ceased to operate that incinerator a week previous for ecological reasons. Otherwise, I think the records would have been destroyed.

Q. You mean, but for the incinerator breaking down, the destructive attempt would have succeeded?

A. I think it would have, but for the fact that they closed that particular facility because of opposition to it.

Q. Prior to the Commission order respecting companies' production of uncommitted reserve data, were discussions *had* with companies respecting whether they would comply and upon what terms or conditions?

A. I don't know, but I would doubt it very much. I don't think there was any discussion. . . . You'll note that there were two dissents in the initial order, which gave companies hope that the Commission would limit itself in its exercise of its investigatory authority, but the majority rammed it through anyway. They went out and got the data, despite Commissioner Carver's insistence that there was no need for it.

Q. Who dissented with the Commission vote?

A. Commissioner Bittman.

Q. After the order went out, but before companies complied, are you aware of any communications relating to the companies' replying to the Commission order?

A. I would expect that there were some—some in the nature of just innocuous questions about specifically what do you want; others in the nature of objections and attempts to *limit* what they had to supply—I mean, I *assume* these things. I have no knowledge of any conversations.

Q. Do you know with whom such conversations would have taken place?

A. No.

Q. Can the files be searched to ascertain whether before companies complied, there were written or oral communications concerning the terms of complying, the extent of confidentiality, whether the material would be returned, who would be afforded access to it, who would be denied access to it, as well as whether they would be destroyed?

A. They can.

Q. I'd like to see very much all documents that relate to that matter, because you did produce in the limited time you had, you know, a Texaco typed letter. And I'd like to know whether other letters came in and whether there were other Commission memoranda discussing whether or not the ground rules would be changed, and particularly whether there is any material indicating telephone communications along that line?

A. I'll try to ascertain that for you. The Texaco letter, particularly, was a transmittal letter covering the material which complied with the order, and I assume there are many of those.

Q. After the companies complied with the Commission order, are you aware of any communications with companies, besides the Texaco matter, and besides the Humble matter, respecting who would have access to the data, what use would be made of it, whether it would be returned, or whether it would be destroyed?

A. I'm not aware of any—I would expect that attempts at communication on that subject would be repulsed. The Commission *had* an order and indicated what it wanted done, and I doubt very much if there were—there *were* these five telephone calls, or approximately five—I don't know how many—John Redmond had "X" on them—to Mangen, asking for the return of the enclosed data, but I figure those were—that was the *only* company, because it was the only one he did, in fact, return, and he professes an understanding that if they wanted it back, he would give it back.

Q. Sure. Could you also search the files and query all personnel to ascertain whether or not such promises, in addition to the ones disclosed, occurred, and relate that back to us?

A. If I can.

Q. Thank you. Are you aware of any communications from companies or FPC personnel or FPC members to the Office of Management and Budget, the White House staff, or Business Advisory Council personnel prior to the issuance of the order demanding provisions of the order requiring production of such data?

A. I can answer that if I talk to Dr. Charles Franklin, who is in charge of our Federal Reports Act activity. He reports to me and I just don't have the recollection of how we handled R-405 in the data collection process.

Q. It would be helpful to know whether OMB clearance had to be approved before it went out and on what terms the decision was imposed by OMB.

A. I note that the questionnaire which is attached as Appendix II to the Update order, September, 1972, does not bear a clearance number, which suggests that it was *not* cleared before mailing.

Q. After the information was received by the Commission, right through to today's date, are you aware of any communication by Commission staff or personnel with OMB personnel, White House personnel, or Business Advisory Council personnel respecting the use and disposition of such data?

A. The only—if, in fact, this was not cleared through the Federal Reports Act process, we do report to them that we are collecting data outside the scope of the Federal Reports Act, we do report to them. So there may have been a telephone call subsequent to the issuance of this order prior to its issuance between Dr. Franklin and Dr. Chatel over there, telling what we were doing and justifying what we were doing in terms of the Reports Act in compliance. Basically, the justification is if this is a specific data collection in a proceeding, rather than a data collection for general purposes outside a particular proceeding. But I know of no communication between the Commission or its members or staff and the company or any organization representing the company.

Q. And more particularly, since the Sunday newspaper story revealing publicly for the first time in the press the alleged attempted destruction, were communications had by Commission members or personnel with White House personnel?

A. I know of none and am quite sure there has been none.

Q. Upon what basis do you reach the judgment that there has been none?

A. From the discussion in the Commission meeting of yesterday respecting total reaction to that article and to the Senator's request.

Q. When R-405 was first issued, was the General Counsel then Mr. Forquer?

A. No—Gordon Gooch.

Q. Gordon Gooch was General Counsel at the first issue?

A. I believe that's right—in the seventies.

Q. When did Gordon Gooch leave the Commission?

A. He left in June, prior to the election, to join the Committee to Re-Elect.

Q. In June of '72 when he left, was the data submitted by the oil and gas companies in response to the questionnaires?

A. Yes, it was. The original data collection under, not this order but the prior order—in other words, the 1970 order was followed by the data collection in early '71—March of 1971. Gooch was General Counsel at that time. The update order of September, 1972, Gooch was not General Counsel; Forquer was.

Q. Have you verified whether any data pursuant to the 1970 order was destroyed?

A. I have not. . . . That was the key to my entry and (inaudible) to test Mangan's understanding.

Q. Do you know of any conversations that Mr. Gooch had with respect to the use and disposition of such data with any other FPC staff?

A. No, I don't, since the three investigators in the proceeding while Gooch was General Counsel were all members of *his* staff in the Office of General Counsel, and I would assume that there was a lot of conversation. Indeed, I think that at one point, he participated himself. . . . I have some recollection.

Q. Participated in what?

A. Sat in with the investigators in their interviews with company officials, getting the information.

Q. Since Mr. Gooch left the commission, are you aware of any discussion with him by the Commission members or personnel respecting use or disposition of the data compiled?

A. No, I know of *no* conversation.

Q. You may recall the letter dated March 7 from Chairman Nassikas to Chairman Hart requesting some material underlying the data supplied by the 79 producers?

A. I've seen that—I don't have a copy of it.

Q. If you'll accept my statement for the moment, which, of course, we both could correct if it turns out to be erroneous, and we can just quickly get this question done, and that is, that letter requested Chairman Nassikas to send the same material that Chairman Hart requested to the Federal Trade Commission for use in its investigation of the accuracy and reliability of the reserves reported by the American Gas Association. Accepting that as true, what did the Commission decide to do with respect to that request?

A. The Commission decided that it had collected the information under a pledge of confidentiality, and that barred it from disclosing it to any other agency.

Q. When did the Commission make that determination?

A. At the time it got—shortly after it got that request.

Q. Do you know if the Commission minutes exist with respect to that decision?

A. I don't know.

Q. Would you ascertain and supply it for our records?

A. (inaudible)

Q. Do you know the date upon which the Commission met to determine its decision with respect to Senator Hart's letter?

A. I don't.

Q. It would be helpful to ascertain that as well.

Do you know whether the Commission decision was unanimous with respect to that request?

A. I don't.

Q. How did it come about that Mr. Joyce responded to Senator Hart's letter?

A. I don't know that.

Q. Do you know whether Mr. Joyce was instructed to take the position that he did by the Commission?

A. I don't know, but I assume he was—that the Commission decided this data was confidential and Joyce was instructed to so inform the Senator.

Q. Do you know what position was taken by the General Counsel at the Commission respecting the right of Congress and the Federal Trade Commission to have access to such data?

A. I don't.

Q. Were you requested to provide your judgment respecting the request in Senator Hart's letter?

A. No. I was requested to advise as to the application of the Freedom of Information Act, which Joyce relied upon. However, whether that was after or before the letter, I don't know.

Q. You were quoted—rightly or wrongly, I don't know—but the newspapers released the Morton Mintz story on that Sunday, first reporting that alleged act, attributes the statement to you that the Freedom of Information Act doesn't apply against the Congress. It also states: "I wouldn't think the Gas Law could be used to deny the information to Congress."

A. That's incorrect.

Q. That is incorrect?

A. Incorrect, yes.

Q. Both statements incorrect?

A. No. One correct, one incorrect.

Q. What's correct, what's incorrect?

A. I told Morton Mintz that I was familiar with the Freedom of Information Act, having participated as an administration representative in a negotiation between Bud Fensterwald and Leo Kennedy and Ed Long's people and Moss' people in trying to get an act that would accommodate these very strongly held views of the agencies, and we went through a number of drafts as a cooperative effort between the administration and the House and Senate Committees to try and get this thing straightened around. We finally came up with an act that passed. That act is nugatory as to the Congress. There's not any legislative history on that. That was an act (inaudible) structure of writing it. That was one of the provisions struck in at the end: "This act shall not constitute an authority to withhold from Congress."

As to the Gas Act, I have not studied—I did read the provision, but I have not studied its background or application of the cases thereunder or anything else. I told Morton Mintz that I assumed from the language that that act precluded any staff member from giving over—Joyce or otherwise—from giving over to the Committee these data in violation of the Commission's order. The Com-

mission has the power, certainly, to remove the cloak of confidentiality, turn the material over to Senator Hart under the terms of the statute, but it probably didn't have the right, having acquired the information under a promise of confidentiality. My answer to him was that the Gas Act protected some disclosure to the Subcommittee; the Freedom of Information Act did not.

Q. I take it you believe, then, that should the Commission today desire to produce the data to this Subcommittee, it could not do so, even by unanimous vote.

A. It has certainly the *power* to do it. I am urging upon them to think they *should not*, they don't have the *right* to because of the promise that they *would not*—

Q. Where is there a promise to anybody that they would not turn it over to the Congress? The order states that: "it shall be maintained in confidential fashion pursuant to Section 8(b) of the [Natural Gas] Act, which explicitly gives the Commission the right to decide *who* it would give it to.

A. The order of the Commission said it—

Q. . . . the term "the public" includes the Congress of the United States, charged with legislating matters in the natural gas area and the creator of your agency?

A. Right. The Congress Commission has spoken. Here is their language:

It seems to me that to divulge this to the Subcommittee or to the Federal Trade Commission or to a Bureau within our agency would be to so jeopardize its status that you would be, in effect, giving it to the public.

Q. Senator Hart's letter dated March 7 and Mr. Joyce's response is dated March 20. Do you know when Mr. Joyce first became aware of Senator Hart's letter?

A. No, I don't.

Q. Do you know whether Mr. Mangen, before March 20, was aware of Senator Hart's letter?

A. He, as I understand it, was the staffer who drafted that letter for the Bureau of Natural Gas. In other words, whatever discussions were had between Mr. Joyce and the Commission and whatever decision was made as to how to respond, he got his staffer in, Mangen, and said, "Here's what we're going to do and here's what I want the letter to say." So Mangen provided the letter for his signature."

Q. Would you be able to check the files so we can ascertain the date upon which Mr. Joyce and Mr. Mangen first became aware of Senator Hart's March 7 letter?

A. All right.

Q. What took place when Chairman Nassikas received Senator Hart's letter dated May 18 saying that the Senator was not satisfied with Mr. Joyce's reply and that the Chairman was requested to bring the data with him at public hearings?

A. I have no knowledge of what took place, except that when—let's see—no, I have no knowledge of what took place back in March.

Q. May 18—

A. May 18—

Q. if I may—we only said, "We might have hearings on this. Could you please show up and bring the data with you."

A. Yes. My only knowledge of that correspondence began on May 21, when the Chairman called me in, greatly distressed, to report that the documents Senator Hart sought had been destroyed.

Q. When did the Chairman learn that the documents sought by Senator Hart had been destroyed?

A. May 21.

Q. How did he learn that?

A. I don't know. . . . He apparently—I'm just supposing—he apparently wanted to see what the documents were and they couldn't be produced.

Q. Do you know who he asked for that?

A. No, I don't.

Q. When you were called into his office, who was present?

A. No one but the Chairman and myself.

Q. What were your instructions from the Chairman?

A. My instructions were to immediately have me make an investigation into the whole matter and find out what had happened here that had resulted in the destruction of these records. He was then of the belief that they had been destroyed. So my first stop was the safe where the records were supposed to be and inquired of Vivian, "Where—what happened to these records?"

He said, "Here they are—torn up," as some of these—like that Texaco letter is the only one—on the Texaco letter you can see lines on the xerox from the scotch tape. So I—

Q. Was anyone else called in to the Chairman's office—

A. Yes.

Q. While you were there?

A. Not while I was there, but the minute I found they still existed, I came charging to the sixth floor back to the Chairman's office and by that time there was—Joyce was there, and I guess, both Commissioners were there, ah—he had immediately called everybody else after calling me, and I advised them all at that time that the records, in fact, had *not* been destroyed.

Q. What happened then?

A. Joyce—I mean, Forquer—wasn't immediately available because it was lunch time. He had left the building and gone downtown to the bank and to lunch, so the Chairman said, "Secure these records in whatever form they are. We'll meet again at two o'clock here and decide what we're going to do about this." So, we came back at two o'clock and in strong language laid out orders that a complete investigation of this thing was to be conducted and at that time Forquer was present, the other Commissioners were present, Mangen was present, Joyce was present, I was there. Keu Richardson, the assistant to the General Counsel, was there.

Q. Was anybody from the Office of Economics present?

A. OEC was not present, and I correct: Mangen was *not* present. The Chairman purposely excluded him. The reason I remember that is because when Mangen came into the outer office, the Chairman closed the door and didn't want him to hear the conversation.

Q. Now, what date did this direction for a new investigation take place?

A. May 21.

Q. And when did you commence your investigation?

A. That day.

Q. Can you relate to us, please, as much detail as possible on a step by step basis, the nature, extent and scope of your investigation to date?

A. Beginning on May 21 and extending to date I have interviewed starting with Larry Mangen—

Q. Please excuse me—it might be more helpful for the record if you would relate it kind of on a daily basis, chronologically—what you did May 21 and then each step thereafter, to the best of your recollection.

A. It's not going to be very easy. I can't be that precise. I have a broad responsibility in the Commission. I have about ten times as much work as I can do, and I cannot just set everything aside and go to some undertaking like this and spend my time on it and maintain a log of what I do, and so on. I have 900 phone calls awaiting me all the time and all sorts of things to do all the time, so this is "catch-as-catch-can" work for me, any assignment like this which I am given—not because I am the one best able to do it, but just because of my position: it's got to be done by the head of the staff.

Q. Yes.

A. I just catch-as-catch-can and I have a heck of a time trying to recall *when* I spoke to anybody about it.

Q. Well, tell us in your own words—

A. I did spend some time on it May 21, indeed—the rest of the *day* was devoted almost exclusively to that. I talked to Mangen, I talked to Vivian—I didn't get to Joyce *then*. I've forgotten whether it was because he was out of town, but I didn't get to him immediately. I talked to Dr. Wilson—I didn't get Kofkin—he was out. I talked to Dr. Wald, I talked to Forquer, I talked to Tourtellotte—all on that day. I think that exhausts the people I talked to on *that day*. And then as I was—

Q. Can you tell us what they told you on that day?

A. Yes. Mangen gave me the whole story about how he understood from the procedure followed following the prior data collection that the companies were given back the materials if they requested it. Otherwise they were to be destroyed, and that he had prepared at the direction of Mr. Joyce the information which was released to the public attached to that press release that I've already provided you with, and that thereafter there were special requests from the Office of Economics through Mr. Kofkin, that he had denied what Kofkin wanted on the ground that his responsibility to keep the data confidential precluded his turning over or letting (?) audit. Subsequently there was

a meeting with Wald, Joyce, and Wilson, at least—maybe others—at which there was a determination of what *could* be given to the Office of Economics from these data; that Mangen was instructed by Joyce informally without a writing, as to what he was to prepare, prepared it, furnished it to Joyce; Joyce gave it to the Office of Economics, and the Office of Economics thereafter alleged discrepancies in the figures thus furnished; that they demanded the original documents in order to eliminate discrepancies; the documents were denied.

He waited a respectful period to see if any further developments took place between BNG and OEC regarding that request. There being none, he went down to Vivian and asked him to destroy the documents; delivered them to Vivian, Vivian mutilated them, put them in a burn bag, put them in a safe and intended to take them to an incinerator as soon as he could find one that he could use.

Q. Did Mr. Mangen indicate whether he *requested* or *instructed* Mr. Vivian to take such action?

A. I don't know—it's almost semantic. I don't think he would instruct because Vivian's in another office, Mangen is not the head of *his* office; they're two subordinates in two different offices.

Q. Did Mr. Mangen indicate by whose authority he was either requesting or instructing Mr. Vivian to take such destructive action?

A. I asked him whether he consulted anyone or received any direction from anyone and he denied it. He said, "No. No one told me to do this. I did this just on the basis of my understanding of what had been done before."

After this delivery to Vivian, Mangen received further requests from OEC and he told them the documents had been destroyed, that he could not comply with the request.

Vivian indicated that Mangen came down to him and he gave me an approximate date which doesn't accord at all with what Mangen said. I think Mangen was there a *month* apart, and Vivian said it was on or about April 22; Mangen came down to him, stacked the documents so high and explained what they were, and they were confidential data; that they had completed their computations from them, that they had no longer any use for them; that because of their confidential character, they had to be careful that they were destroyed and not just thrown into a waste basket someplace; and could he please use Mr. Vivian's incinerator to destroy them. Vivian explained that he couldn't destroy them at the moment, but that he would mutilate them in the presence of a witness; and he wouldn't give any receipt for them because there were no many, he didn't want to make a list of them all. He just said, "I'll take the pile, and I'll be glad to destroy them for you, and I will—pending their incineration or shredding, I'm going to have Miss Sue Hyde (Miss Sue Hyde of my office here) observe while I tear each sheet into four pieces with two tears; and he would take a manageable quantity off the top of the pile and do that.

Mangen observed this process—maybe not to completion, but at least he stood around a few minutes to see what was being done. Then Vivian did *not* ask the witnesses to sign anything, nor did he himself provide any writing. He put the stuff in the burn bag, put it in the safe, forgot it until May 21, when all the excitement was about what had been done.

That's Mangen's testimony and Vivian's testimony.

Q. Excuse me—you say they were a month apart on the dates. Does that mean that Mr. Mangen believes he took it to Mr. Vivian on or about April 22, and Mr. Vivian believes that Mr. Mangen took it to him on or about March 22?

A. The other way around.

Q. Mangen believes he took it to him on or about—

A. Mangen says it was either the last few days of February—or the last few days of March or the first few days of April, and Vivian says, "No, my best guess is April 22 or April 23." Neither one could establish by relating to anything else *when* that date *was*. Kofkin says that he was told by Mangen that the records had been destroyed February 27th, or thereabouts.

Dr. Wilson explained his request through Kofkin—he didn't contact Mangen directly, how he was frustrated in his requests: "Sure, they furnished us with certain concentration ratios, but there were errors in them. We asked to see the documents ourselves and work them; we were denied. So I went to Wald, and Wald set up a meeting with Joyce and we finally received from Mangen his so-called "corrected" version of some kind of the data that Wilson wanted, but that it *still* was not what they had asked for. So, as far as Wilson was concerned there was an outstanding request for data that precluded him from

presenting what he thought was his duty to present in some case—Belco, or something like that. He related the arguments involved in the conversations between Kofkin and Mangen and at the meeting with Wald and Joyce. (inaudible)

Wald confirms pretty much of Wilson's testimony. Wilson had come to him complaining both of the delay and the inaccuracy of what was furnished, so he went to Joyce and they reached some kind of an agreement as to what BNG had an obligation to furnish, and it was subsequently furnished, but not to the satisfaction of Dr. Wilson.

Forquer had no knowledge of the whole thing earlier than May 21, when the attempted destruction was discovered. Tourtellotte explained that although he was one of the three investigators—specifically, the Washington investigator—in the prior proceeding, that his participation was peripheral and he really couldn't establish what the other two did. He did find out for me how I could get in touch with the other two investigators. He did produce a letter which says, "Immediately upon completion of the transcription of the requested figures," the documents provided by the companies would be returned to them.

Q. Who produced that letter?

A. Tourtellotte.

Q. That letter was *from whom to whom*?

A. That was from Tourtellotte as investigator to all the reporting companies. And it's in the furnished; should be more accurate. (leafs through) I didn't mark these as we went along, so I don't know which one it is.

Q. What's the date on it?

A. It's the March 8, 1971, letter from the three investigators to the Secretary. And appended to that is a three-page letter dated Nov. 20, 1970, beginning: "Gentlemen:" with space for an addressee above it. And I think this is one of three letters, the only variation being whether it's Houston, Tulsa, or Washington, to which the documents were to be delivered. But at the bottom of the second page, the last sentence says: "Reports will be returned immediately upon transcription." Otherwise, he wasn't much help, so I asked him for a memorandum describing as accurately as he could the procedure employed on that occasion. And he has not furnished it—I expect to get it from him. Those were the people interviewed on the first day.

Q. All those people on May 21?

A. Yes.

Q. Were any witnesses present when you interviewed?

A. No.

Q. Was any transcription made?

A. No.

Q. Have you rendered a report or written up—taken notes?

A. No.

Q. It's all your memory?

A. It's just memory. The initial go-around was to find my way.

Q. Yes. Yes. OK.

A. Since May 21, I've talked to—well, I've taken the formal statements of Mangen, Vivian, Kofkin, I have Dr. Wilson scheduled for this afternoon, and I'll have Dr. Wald at the same time. Victor Zabel will be Monday, and then the secretary to Mangen (inaudible). I've spoken to those people about getting a statement without discussing what they say or why. I talked further with Mangen about five times, trying, as I learned something from somebody else, to go back to Mangen and say, "Now, here's what somebody says. Does this accord with your understanding?" or "Can you provide me with any further information?"

I've talked with Vivian a couple of times, just trying to get the dates straight to see if he couldn't relate the delivery of the documents to some other happening and he knows the date of. I talked to Wilson, maybe half a dozen times on the requests made of Mangen or of Joyce and what their responses were, their cooperation or lack of it, what happened. I talked with the Chairman about a couple of things. I had this general discussion about it, without really rendering any kind of a report at a Commission meeting, and I've been in constant touch with Forquer as adviser and for exchange of ideas as to where we ought to go in investigation. That's since May 21.

The only dates I can fix in there are the Commission meeting yesterday morning from 8:30 to 10:30. That's about the amount of time I've been able to put in on the thing and I'm sure if the Chairman knew I've done so little

so far, he'd begin to get excited. But I just—this has been a bad period for me.

Q. I certainly appreciate your entire work load.

Why was it decided to take—to interview Mr. Vivian and Mr. Mangen and stenographically transcribe and record that discussion with them on June 12?

A. This—I just was not getting reconcilable answers from these people, and I was afraid they were going to start adjusting what they had said before, as they appeared before you or the Chairman or anybody else. So I thought it would be a good idea to "freeze" what they were saying. Moreover, it was to impose the discipline of a sworn statement, to try to get them to answer accurately. So that's the idea: just to try to get a more reliable record.

This process began before we started talking about an investigation.

Q. Was the decision made to take stenographic transcripts of witnesses' statements *after* the receipt of Senator Hart's letters stating that he had instructed his staff to try to privately interview FPC personnel?

A. I don't know of any. Without relation to that, I just decided myself that I wasn't getting anywhere with inaccuracies and I'd better start freezing these things.

Q. But the decision was made, whether or not it was related to Senator Hart's letter or to the newspaper story on the proceeding Sunday, the decision was made after both those actions, is that right?

A. Here is the note on this thing here—here is Senator Hart's letter. That's when it came into the Office of the Chairman, and this one here—

Q. Let the record reflect that the stamp of the Federal Power Commission indicates receipt in the office of the Chairman on June 11, 1973, at 1:28 P.M., a letter from Senator Hart dated June 11, 1973.

Without attempting to characterize the decision as relating to Senator Hart's letter or the newspaper story of the preceding day,—in fact, was the decision made to stenographically record witnesses' statements subsequent to receipt of Senator Hart's letter?

A. I think in fact it was. You know, I toyed with the idea and became increasingly discouraged at how inaccurate the whole thing was, whether by evasion or not, I don't know, but I just wasn't getting any cooperation about fixing these dates, so I figured I'd better submit these witnesses to this discipline. But that decision was made *after* the newspaper article, I remember *that*. And probably, as the record shows here, it was after the receipt of the letter.

Q. Did someone suggest to you on the 11th, after receiving Senator Hart's letter that it would be a prudent course of action to proceed via stenographic recording?

A. The Chairman did, after I was already doing it. The Chairman, in discussing this matter with me, said, "Have you thought of taking depositions from these people?" And I said, "Yes, I'm already doing that."

Q. When did the Chairman advise you of that?

A. After receipt of the letter here.

Q. On June 11?

A. Sometime this week, I guess. It was Monday of this week, probably. . . . When was this?

Q. Tuesday, June 12.

A. I think it was probably Monday of this week he discussed with me the desirability of getting this stuff down in writing under oath, and I said I'd already decided to do that.

Q. Let the record reflect that when Mr. Maxson asked the date saying, "What is this?" he was referring to the stenographic report of interviews conducted with Mr. Vivian and Mr. Mangen.

A. That's right.

Q. How did Mr. Forquer become involved in taking statements involving this matter?

A. He is going to take all of the statements. In other words, I just need some person intimately involved, to interview these people other than myself as the investigating officer. I just want some lawyer to make up his questions and go ahead and (inaudible).

Q. Why do you want some lawyer to do it, other than yourself, charged with investigating this matter?

A. I'm going to take the results of that and not be the person who designed the questions.

Q. Oh, I see. You're going to make a judgment as to what happened and recommend whether action should be taken against anybody or not, is that correct?

A. Yes. That's correct.

Q. Will your decision be binding, or would that be a recommendation to the Commission or to other federal authorities?

A. The recommendation would be a recommendation only, to the Chairman. Whether he would ever relate it to the Committee is up to him. He's the one who asked me to undertake the investigation, and I'll report to him.

Q. If the alleged attempted destruction in fact had taken place, it is your judgment that a violation of Commission regulation or federal law would have taken place?

A. I think it was a violation of the Commission *order*. I'm sure it took place, and I'm sure it was a violation of the Commission order. I know of no regulation of this agency, the Federal Power Commission, relating to it one way or another. I have not researched the archivist's regulations or any statutes relating to the destruction of government documents. . . . I wouldn't be at all surprised if there are some.

Q. Subsequent to March 21, did you attend any meeting in Chairman Nassikas' office, either alone or in the presence of other people, which discussed the contemplated appearance of the Chairman before this Subcommittee?

A. I did not. He handles his Congressional business *entirely* by himself, even to the point of drafting statements. He uses Bill Diener, the Assistant to the Chairman, of Grade 17, for any things like this. He really doesn't call upon the staff through me, or call upon me personally, to participate in the Congressional meetings.

Q. You're quoted in the June 12 story by Mr. Mintz as follows: "Mangen's destruction order was a staff bungle." Is that an accurate quote?

A. I think so. That's what I told him.

Q. In what respect did you mean it was a "staff bungle"?

A. I meant that the Commission had ordered that these documents be "maintained,"² and that Mangen as custodian, or anybody else—Vivian as the fellow who exercises the—who operates the incinerator—I just can't conceive of how a staff member would do something like that. Even if he knew nothing of the Senator's request, I don't see how on earth he could take these documents under that order and—we bungle all the time and there are staff inadequacies, and mistakes *all* the time, but this was a bad one, I thought.

Q. Did the Chairman relate in any way, shape, or form the receipt of Senator Hart's letter with respect to your taking sworn statements?

A. Did the Chairman respond to Senator Hart's letter?

Q. Let me rephrase that so it's clearer: The Chairman received Senator Hart's letter on or about 1:28 PM, June 11, indicating that the Senator, as Chairman of the Subcommittee, had instructed the staff to commence an immediate investigation, to take private interviews and review relevant documents. Thereafter, you indicated that Chairman Nassikas advised you of his desire that your investigation be conducted along the lines of taking a sworn statement. Did the Chairman relate such request to the fact of Chairman Hart's commencing an investigation?

A. The Chairman, I believe, on Monday of this week asked if I had thought of taking depositions from these witnesses, and I responded that I was already doing so. He didn't indicate whether the idea occurred because of Senator Hart's pending investigation.

Q. Did he relate in any way Senator Hart's letter with respect to taking sworn statements?

A. I've forgotten when—now let's see—in that conversation, I had not yet seen this letter, although he had, in fact, sent me a copy on Monday, and the discussion centered around this investigation. That's what we were talking about generally. But, anyway, he inquired as to how I was coming, and I told him, "Not too well." And I told him what the difficulty was, that I was having trouble establishing when—what the chronology was—of this whole affair.

And he said, "Well, have you thought of taking depositions from people, subjecting them to the discipline of sworn statements?"

A. And I said, "Yes, I have. I'm already doing that."

² Mangen said that he personally chose the wording of the order and intended "maintain" in a broad sense as related to confidentiality. See Mangen Interview I, p. 37. Dictionary gives five meanings in Mangen's sense; one meaning: "to preserve, keep, retain." Little & Ives Webster's Complete and Unabridged, p. 795.

Q. Was the context of the Chairman's recommendation to you that sworn statements be taken made within the context of discussion pertaining to the commencement of an investigation by this Subcommittee?

A. No. It was related directly, as I recall. The reason I was in his office talking to him was, he said, "I've got this letter from Senator Hart. Have you read it yet?" He said, "I sent a copy down to you."

I said, "No, I haven't had a look at it."

So he just said, "Well, the Senator has indicated he's undertaking an investigation." And we discussed that prospect generally, and in that connection he said, "How is your investigation coming?" And he made the suggestion that I resort to *this* technique to establish the statements of the witnesses.

But there was *no*—no direct relation of this technique to what we anticipated you people were going to do, or something like that. It was rather he called me in to ask if I'd seen this and then asked how I was doing, and it was more in the context of, "If you're not getting what *you're* expecting from these people, have you thought of taking depositions?"

Q. And it's your testimony, then, that it's purely coincidental that the Federal Power Commission investigation of this matter became formalized after notice from the Chairman of this Subcommittee that this Subcommittee had commenced investigation?

A. No. That's not my statement. My investigation became formalized beginning May 21. In other words, I am expected, and have been from that time, to provide a complete and accurate chronologized—I believe there is such a word—account of what transpired here. And the employment of this particular technique of having the people come in, be sworn by a notary, and give a statement for the record, transcribed—that technique is coincidental with receipt of the June 11 letter. The Chairman may well have inquired as to whether I had *considered* this technique as a result of that letter.

Q. When you met with Chairman Nassikas on June 11, did he indicate displeasure or pleasure with the fact that the Chairman of the Subcommittee had commenced an investigation?

A. Neither. It was a factual relation of the way it developed.

Q. Was the atmosphere of that conversation friendly or hostile?

A. Neither.

Q. Neutral?

A. Business of the day.

Q. Did the Chairman ever indicate to you that, either in connection with the letter of Senator Hart indicating the commencement of an investigation, in connection with Senator Hart's letter asking the Chairman to testify at hearings respecting the nature and extent of concentration and competition in the control of reserves in the natural gas producing industry, or otherwise, that Senator Hart has been trying to get the Chairman?

A. No. He's *never* indicated that. From time to time in this particular matter, there has been a sense of exasperation—in other words, the Chairman has said repeatedly, "We haven't done anything wrong here, and I'm sure that if the Senator is relying upon this investigation or any information furnished to him by the Office of Economics or anybody therein, to embarrass the Commission, the effort will fail. This is just all utter nonsense. My only insistence is that whatever we do here, we'll maintain on an open record. We haven't done anything wrong. I want everything that happened to be known to everybody involved," and it was that kind of exasperation that he expressed. There were no suggestions that the Senator was out to "get" him.

Q. Mr. Maxson, does your reticent answer indicate an express or implicit statement from the Chairman that the disclosure of the destruction of federal documents by Mr. Mangen emanated from your Office of Economics?

A. No. In the past, the Office of Economics has had a difference of view when they were frustrated in some effort of theirs, and the next thing you know, it's in the paper. So, they have been suspect for a long time on this business of trying to fight their own battles outside the Commission. If they lose before me, in trying to mediate some dispute among the bureaus and offices, or if they lose in an argument with one of the Commissioners or the Chairman, invariably it seems to suddenly make the papers. This is just a matter of past history, which you can document if you want to go back and look at the papers. That's why that

reference to the Office of Economics' working with the Hart staff to try to embarrass us here: "They can't possibly do it; we haven't done anything wrong here. And my only insistence throughout will be that this whole business will be straight on the public record.

Q. I take it, then, that the Chairman had been displeased with the performance of the Office of Economics?

A. That's true.

Q. Have you ever heard of any explicit or implicit discussion respecting changing of the personnel within the Office of Economics?

A. Yes. The Office of Economics is a relatively recent staff innovation. At one time, the economists who were doing economic studies were divided among the Bureau of Power, the Bureau of Natural Gas,—Originally when the Office was set up, it was set up as a division of the Office of Accounting and Finance. How long ago that was I don't know; my history's short. Now it's a bureau office of its own.

This practice of the Office of Economics is going to higher authority—namely, the media—whenever they're defeated inevitably brought forth the suggestion that, "Hey, it's just incredible that an agency has to war continually with one of its own bureaus or offices. What in the world can we do about that?"

Inevitably the suggestion was made, "We could always do away with it!" and restore the prior status of allocating the present incumbents among the Bureau of Natural Gas and the Bureau of Power, or put some in the Office of Accounting and Finance—do away with the Office of Economics and subordinate that activity to the major operating bureaus, such as Power and Natural Gas. That idea was rejected.

Q. Whose idea was it and who rejected it?

A. Mine, and the Chairman rejected it.

Q. Why did the Chairman prefer to have the Office of Economics as a separate unit, notwithstanding he was displeased at its performance?

A. I don't know.

Q. Were any other Commissioners consulted?

A. Not that I know of. I don't think he's ever talked to—in other words, this would have to be a Commission action. Anything which changes the organizational structure or a major organizational unit has to be an action of the Chairman, with the approval of the Commission by a majority vote.

Q. What were the views of Commissioner Moody with respect to disbanding the Office of Economics?

A. I don't know.

Q. What was the view of Commissioner Carver?

A. I don't know.

Q. Do you know the views of any other Commissioners respecting that proposal?

A. No. I've never discussed it with anyone—other than the Chairman.

Q. Has any investigation been conducted leading to the conclusion that, in fact, the Office of Economics has been carrying its case on through the news media?

A. No. That's a matter of record. Office of Economics personnel have been quoted by the press in articles critical of the Federal Power Commission. I also might add I explored the possibility of removal of the Chief. My proposal was to make all Bureau and Office heads Schedule C personnel to serve at the pleasure of the Commission, to take away their career tenure. I learned that that was not possible under the Civil Service Law.

Q. Why would you seek to have Mr. Wald removed?

A. Because of the unsatisfactory performance of his office. Now, whether he's talking to Jack Anderson or anyone else, he's responsible for the performance of the Office. He has not concluded that kind of activity by his office.

Q. Does "unsatisfactory performance" in your mind equate with professional competence, or different view with people in your agency?

A. Professional competence.

Q. You suggest that Mr. Haskell Wald is not professionally competent to head the Office of Economics?

A. I don't suggest that.

Q. Do you believe Mr. Haskell Wald is professionally competent to head the office?

A. Yes, he is.

Q. Do you then equate "unsatisfactory performance" with views different from those of other persons in your agency?

A. Yes, if the views are designed to render ineffectual what the agency's trying to do. If the Commission with its Congressionally mandated responsibilities for national energy policy and, more specifically, for the conduct of the program it's responsible for under the Natural Gas Act and the Federal Power Act, *duly* decides on actions which it feels, in its best judgment, are necessary and appropriate, I think it "unsatisfactory performance" for some staff official to arrogate unto himself a different policy judgment and to try to effectuate that judgment by going to the news media to undermine or otherwise subvert the Commission action, the people duly constituted, duly charged with the responsibility.

Q. Do you believe that the Office of Economics is trying to subvert the Commission's request to regulate the well-head prices of natural gas?

A. I don't know.

Q. Do you believe the Office of Economics is trying to subvert the Commission's policy determination that natural gas prices must and will be raised?

A. I don't know.

Q. What do you believe the Office of Economics is trying to subvert—what policy judgments of your Commission?

A. There are a variety of orders issued in the recent past, over the last three years, which have been attacked in the press, with what appear to be motivation from the Office of Economics—information supplied by the Office of Economics, statements I just don't think that *they* are the ones responsible for the judgments, since the Commission is. And I don't think that they ought to try to subvert those judgments.

Q. In your view, the majority opinion in the Belco proceeding strongly castigated the Office of Economics for testifying in opposition to that rate increase. Is that the kind of Office performance you had in mind when you

A. No.

Q. stated it was "unsatisfactory" or "trying to subvert the Commission's policy judgment"?

A. No. I think that the record in the case is best served if the Office of Economics has an honest view and let it be presented on the record. It's *after* the decision in the case that the case is taken to the press—not before the decision in the case, when the case is taken to the administrative law judge. I'm not criticizing their deviation from other staff views or their differences with prior Commission decisions on the record in the case. I think that's where they ought to argue it. I think that they ought to present their case to the Commission and let the Commission, because *it* has the responsibility delegated under the statutes, decide, and then live with that decision.

Q. Do you believe it "unsatisfactory performance" for the Office of Economics personnel to testify before this Subcommittee at variance with the position and judgment of the Commission?

A. No. I don't, if that's the will of the Subcommittee, to listen to people responsible for policy judgments and to listen to *other* people, even though they be employees of the people responsible for policy judgments. That's your decision to do that and I don't criticize that.

Q. I believe we're done with the interview, Mr. Maxson. Let the record show that it's now 1:30, and, since this is a preliminary investigation that is being conducted by the Subcommittee, and since the identity of all interviewees is not yet fully determined, and because the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, we would respectfully request that you *not* discuss the substance of the interview with anyone other than your personal attorney.

And, if you would like, at this point, to add anything for the record, we would be happy to receive that.

A. I *would* like to inquire as to how I can conduct *my* investigation without discussing anything we talked about today with the people from whom I'm trying to extract the information?

Q. I certainly think it's proper for you, if you may have gotten some ideas from this interview this morning, for lines of your own inquiry, or something like that, why I think that's very *proper* for you to utilize that, and we hope that we *can* be helpful in those terms. I think the only thing that *I* am saying is that we would prefer that the substance of our questions and the fact that our questions were asked *you not* be revealed to anyone else, and certainly we would hope that maybe you *may* use some of the things that *we* use.

Q. We have a common purpose, and, as I indicated before, I furnished you two of these sworn statements—Mangen's and Vivian's—and others will be forthcoming as I receive them and give the persons interviewed an opportunity to correct the transcript as you ordinarily would, I'll furnish you those as I indicated previously, in the hope that that might aid *your* investigation.

Q. We do appreciate it and we appreciate your cooperation.

A. Well, and all I was going to say was that I would hope that it might go the other way, that whatever strictures you place upon the people you talk to would not preclude *me* from finishing this job I'm doing, because I would like to be able to examine all these people freely, and any others that I run into along the line and get the whole story from them—not have them inhibited in any way in what they're going to tell me.

A. No. Certainly not. We will make it clear to any other witnesses that, in terms of their cooperation with *you* in your investigation, that they feel free to answer any questions that you may propound to them. We *will*, however, indicate that they not reveal to other people, the substance of the interviews that *we've* been conducting.

A. Fine.

Q. Let me express my appreciation to you, Mr. Maxson, for your extraordinary patience and cooperation responding to my questions, which may not always have been clear. I appreciate your courtesy and would like the record to reflect *my* satisfaction with the manner of your cooperative response.

A. Thank you. It's easy to be cooperative when you don't think you've done any wrong.

STAFF INTERVIEW WITH CARL PAVETTO, JULY 17, 1973

Let the record reflect that this interview is being recorded. Present are Mr. Carl Pavetto, Federal Power Commission Staff; Mrs. Patricia Bario, Senate Antitrust Subcommittee Staff; Mr. Bernard Nash, Senate Antitrust Subcommittee Staff; and Mr. Charles Bangert, of the Senate Antitrust Subcommittee Staff. The time is now five minutes 'til two.

Mr. Pavetto, since the nature of the conduct being investigated may amount to violations of one or more federal laws, we believe it only proper that you be advised of your rights. You have the right to remain silent, to refuse to answer any questions you feel may tend to incriminate you. Anything you do say can be used against you in any other proceeding. You have the right to have counsel of your choice with you during questioning, and the right to talk to him for advice before we ask any questions and before you answer any questions. If you desire to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You will also have the right to stop answering at any time until you talk to a lawyer. I want to give you a copy of the statement that I have just read and ask you to read it. You're asked to sign the statement and voluntarily waive your rights, that means your right to have an attorney present.

P. I have to voluntarily waive?

You don't have to. If you want to voluntarily waive your right to have an attorney present, you may do so. If you do not want to, we will terminate the interview at this time until you've had an opportunity to get counsel of your own choice.

P. Well, I shouldn't need a lawyer to answer your questions.

Well then, do you wish to waive your right to have an attorney present?

P. But that's not all it says on the form there. It says, "I understand my rights and voluntarily waive them. They aren't specific, they could be any rights, they could throw in anything on that."

Well, if you want to change that to read however you want to, you may do so.

P. I'll answer your questions, but I'm not going to waive any rights.

Well, are you not waiving the right to have your attorney present for this interview?

P. Yes, but that's not what it says. It just says, I voluntarily waive my rights. Do you want to change that?

Yes.

All right. Change it to read however you . . .

P. I'll just say that I have read and understand my rights and I agree to be interviewed. How's that?

All right. For the record though, do you wish to have an attorney present?

P. No.

OK.

P. Just scratch this out?

Yes.

P. Shall I initial it?

You can initial it if you want and then sign it.

P. If they're initialed, anybody could scratch it out.

Mr. Pavetto, as you may know, the Chairman of the Senate Antitrust and Monopoly Subcommittee asked the staff to conduct an investigation relative to the alleged attempted destruction of documents that were received from the Federal Power Commission from some 79, I believe, natural gas producing companies, and that is the purpose of this interview, to attempt to elicit all circumstances regarding the alleged attempt at destruction of documents and the use that has been made of the documents. Now, we'll ask you a series of questions as we have to each of the other interviewees before you. We want you to understand that there's no basis of accusation or innendo or pre-judgment intended. This is only a means of eliciting information from all witnesses and obtaining necessary background information to evaluate all of the circumstances involved.

Q. Would you please state for the record your name and address?

A. My name is Carl Pavetto. I live at 3741 39th St., NE, Washington.

Q. And what is the present position that you hold at the Federal Power Commission?

A. My job presently is petroleum engineer.

Q. And how long have you been employed by the Federal Power Commission?

A. For slightly over four years.

Q. And who is your superior?

A. Lawrence Mangen.

Q. And what is the chain of command in your organization?

A. Starting with me, my immediate supervisor is Lawrence Mangen. His immediate supervisor is Mr. Edward Alare, and his immediate supervisor is, I guess, Mr. Thomas Joyce. He's the chief of the Bureau of Natural Gas.

Q. And you are in the Bureau of Natural Gas?

A. Yes.

Q. And what are your responsibilities in your present position?

A. My present responsibilities—I am responsible for making reserve estimations and evaluating pipeline certificate applications. I basically work on kind of auditing their reserve estimations and checking their deliverability as a part of their applications.

Q. How do you go about doing this?

A. Usually, we take the information that is provided by the companies in their docket. We file docket for further application. We usually take the information from the docket but if we can't get enough information from the docket, then quite often members of the company will come in and provide us with the information. Basically we take the basics, the data that they give us and we use it on our own formulations to come up with an answer to see if our answers agree with their answers, and if they agree reasonably, then we usually write a memo and say that their gas supply and their deliverability seems to be reasonable and we suggest that the gas supply section be approved and that it be taken into consideration whenever the certificate is evaluated.

Q. What's the margin of errors that's permitted in that assessment?

A. That I really couldn't tell you because a lot depends on my supervisor. He sees the work, he compares them, he makes the decision. The margin of error, I have no idea what it would be. As long as the figures are reasonable, I realize that doesn't mean too much, but it's not my decision to make, so.

Q. Do you make a recommendation?

A. No, not really. I mean, I make a recommendation inasmuch as it looks reasonable to me, you know, the figures are close enough—our, my figures—I don't do this alone, of course—there's other people working on this at the same time. I might work with another fellow, two people, and the figures we come up with—and, like I said, the basic thing is being reasonable—you're not going to quibble about 1000 mcf when you're talking about 1,000,000 mcf. As far as any set rule about being reasonable, there's none that I know of. Then, again, it's not my decision to make.

Q. Well, do you have a rule of thumb, in terms of, do you recommend that the figures are accurate in terms of the error?

A. No.

Q. So you wouldn't consider 1000 mcf if you're talking about 1,000,000 mcf, you wouldn't consider that significant, is that right?

A. No, because the whole process of calculation is pretty hard to estimate something that is at least 5000 feet down into the ground. You depend on many factors, and you can't quibble about 1% error when you have actually no idea that your calculations are even close to what's actually there.

Q. How about a ten percent error?

A. A 10% error is probably on the borderline, it's not significant enough to warrant our recommending disapproval of the certificate.

Q. How about a 15% error?

A. That's probably still on the borderline—10 to 20% is probably still on the borderline. It's when you start talking about 25% or 50% or even more than that, that's when there's a significant question raised that we either ask for more data, or we check over it again. Usually, what happens in that case, they'll ask for better data. Because the companies come in, and naturally they're going to provide you with the minimum data they can get away with, so a lot of times we ask for better data. I mean, they'll let you check more things, like they have logs—I don't check the logs, but if you ask them for more logs, they might be able to bring some in.

Q. Well, do you actually check logs?

A. It's actually done—I don't do it, but it's actually done, yes.

Q. Who would do this?

A. Well, we have two people right now—one's Raymond Lulowski (?) and the other's Charles Bailey—they're log men. They check logs. Other people can do it, but I don't do it. That's no part of my job, I was never trained to do it.

Q. So your job, I take it, you obtain the finished figures, if you would from the company and those are the ones you work with?

A. No, we don't take finished figures. We just take—well, it's kind of hard to explain. We take—I take things like measurements that they make, like porosity, permeability, acres, feet of spacing of a reservoir, and I try to come up with, you know, I take their basic data and I check it up to see if my figure agrees with their figure. And I consider in doing this that there's a lot of room for judgment and a lot depends on my own judgment.

Q. So, they would have, say a final figure, and you take certain information and you arrive at your final figure and you check that against their final figure.

A. Yes.

Q. And if there's doubt, you then ask for more information?

A. Yes.

Q. And this could be in the form of log books?

A. Not log books. They're electric logs. They're measurements taken.

Q. Right, I see.

A. They could be in the form of anything—it's like it's further complicated by the fact that there's different categories of gas reserves—like there's "proven," "probable," and "potential." And if they come in and they say "We have this much gas here," but they won't show us any logs, we can't put any of that down as proven, because they have to show you—well, we can't even put that down as probable, because we have to have some basis to make our judgment on. So, they can come in with logs and show us logs but it's still only probable, it still doesn't make it proven. They have to come in with actual flow tests. They have to have actually tested the reservoir before we can make it proven, so this just further complicates it. So, I mean when we ask for more data, it could be in the formulation of these tests, it could be logs, it could be tests, it could be proof of porosity, whoever their consultant was that came up with this porosity—it could show us enough information to show us that this really is the porosity, things like that.

Q. Do you feel that you're furnished sufficient information to make a valid judgment in your own mind as to the accuracy of the reserve reported?

A. In the times that I have worked on it, yes, I feel that I have sufficient information.

Q. If the basic data that's provided to you is in error at all, is there any way that you can correct this, or can you come up with a valid estimate?

A. No, because you have to trust the company so far. You have to take their basic data because we just can't go down there and take a log on their well, and say, well this is our log. You have to rely on their information. There might be a bad point there, but there's no other way to do it, unless, you know, unless the government had their own team that went out there and did their own checking. It's almost impossible. So you have to rely on them to supply you with decent information.

Q. So, basically, you take their word for it.

A. Basically, when you come right down to it, yes.

Q. Incidentally, do you care for coffee?

A. No, thanks.

Q. There's some water there. If you want coffee let us know.

Now, if you would just detail a little bit of your educational background and experience prior to coming to the Federal Power Commission?

A. Where do you want me to start?

Q. Well, college I guess.

A. OK. I went to the University of Pittsburgh. I started September, 1965. Then I spent four years. I studied petroleum engineering. I got a Bachelor of Science degree in petroleum. And almost immediately after graduation I started in at the Federal Power Commission as a general engineer, and I worked there for, oh, about eight and a half months. Then I went in the navy for two years and then I came back. I started back at the FPC last August 21, and they have changed the position. It's now called petroleum engineer, but I've worked there since August 21, 1972. I started there four years ago, but I actually only have about a year and a half of actual service experience with the FPC.

Q. How did you come about joining the Federal Power Commission staff?

A. Well, if you want the truth, I thought I could get a job because I didn't want to go in the service. That's basically why I took a job with the government.

Q. Well, did you have a contact there originally with anyone, or did you?

A. I had an interview when I was in school. A staff member came out.

Q. Do you remember who that was?

A. Yes, it was Mr. Louis Mendonsa.

Q. Is he still at the Power Commission?

A. Yes.

Q. And he came around to the college, I take it, and interviewed a lot of people and you were one of the ones interviewed, and then made an application? And you received it?

A. That's right.

Q. Now, in addition to the compensation which you received from the Federal Power Commission, do you have any other sources of income such as stocks, bonds, or anything of the sort?

A. No.

Q. Do you have any vested or unvested pension rights, insurance plans, retirement benefits or other financial arrangements arising out of previous employment or from sources other than your own personal financing? And I take it since you were just in the Federal Power Commission and in the service that you would not, is that correct?

A. That's right, the only thing I have is with the government.

Q. You have never been previously employed with any oil or gas producing company?

A. I spent four weeks working for Marathon back in 1967.

Q. When you were in school?

A. Yes.

Q. What did you do for Marathon?

A. They called it a "roustabout." You just worked out in the field repairing pipe, repairing wells. Many times some broke down and you fixed it. It was more or less a labor job, it wasn't an engineering job.

Q. Do you have any relatives working in or for, or representing in any capacity, the oil and gas industry?

A. No.

Q. Have you ever received any honorariums, gratuities, transportation expenses, gifts, or any other thing of value, more than \$10 in value, from the oil or gas companies, or any officials or representatives thereof.

A. No, but I just remembered I worked for Shell for about 10 ten days in the summer of 1968.

Q. What did you do for them?

A. Nothing, that's why I quit. I took a summer job down there and I think I worked for about four days and I was just sitting in an office doing nothing, and I got fed up with it, and I quit, but I just wanted to bring that out.

Q. And this was an engineer?

A. It was supposed to be a some kind of student trainee sort of thing, but they never got around to me, they were too busy, so

Q. So you left?

A. I had other reasons for quitting too, but that was one of them. But I never had any gratuities of any other connections with them.

Q. Have you ever had any discussions regarding future employment, even casual conversations, with any oil and gas company, since your coming to the Federal Power Commission?

A. No.

Q. Would you please try to keep your voice up when you answer so that we can be sure we get it all on the tape?

A. I will, sir.

Q. Are you a member of the American Gas Association?

A. No.

Q. Have you discussed your appearance here with anyone prior to entering this room?

A. Yes, I mean I mentioned it.

Q. Who did you discuss this with?

A. Just about everybody, I guess. Do you want a list of names? Just about everybody I work with—Sam Lazoo, Joyce Powell, Ralph Griffin, Charles Cook, Victor Zabel, Duane Thompson, James Hicks, Lawrence Mangan, Bruce Walmesley, Tom Aphus; that should be about it—Ed Albares, I talked to him about it.

Q. How about Mr. Maxson the executive director?

A. I talked to him, but not about this. I had to have some kind of interview, but, I mean, it was about this incident, but it wasn't about me being here for this interview.

Q. That was the investigation that he was conducting?

A. Right, yes.

Q. But you didn't talk to him about your coming here.

A. No.

Q. What—as best as you can recall, what was the tenor of the conversations that you held with the people that you just mentioned relative to your coming here?

A. Well, basically we tried to figure out what I was going to be asked. That's it. That's what it was about.

Q. What did you conclude?

A. I concluded that I was going to be asked if I knew why Mr. Mangen destroyed the papers and when he did, when he attempted to have it done.

Q. Did Mr. Mangen in his conversation with you indicate what you should say?

A. No.

Q. But you did discuss it.

A. Well, not really—well, I just, you know, mentioned it, I mean. I didn't really discuss with him the interview, other than, you know, well I'm going to go over there tomorrow at two o'clock. You know, I mean, he know that. I mean, as far as discussing what would go on here, no, we didn't discuss that.

Q. Who did you discuss that with?

A. With those other people I mentioned.

Q. Who's Joyce Powell?

A. She's—I don't know exactly her position, but, I think she's some kind of statistician, but anyway, she's the one that—it was her and I that worked up those figures that went into that report.

Q. Well, what was your discussion with her about, to the best of your recollection?

A. What you were going to ask me. If, whether it was—we were trying to figure out whether the questioning would go along the lines of *why* it was done, *when* it was done. We were trying to figure out if that was going to be the line of questioning, or if the questions were going to deal with specific information about the figures that we worked up, about the data that we had.

Q. Did she have anything to do with the destruction of the papers?

A. No.

Q. I guess what I don't understand is why you discussed with *her* what the possible questions was. Was she in a position that she'd know what the possible questions might be?

A. I don't know what you mean by *that*. I mean, obviously, when someone calls you for an interview like this, you're going to wonder what, you're going to think what they're going to ask you, right? And you're going to want to talk to somebody about it and say, well, what do you think they're going to ask me? That's this kind of discussion we had.

Q. Well, how about with Mr. Alvarez?

A. No, I—it's strictly a where and when discussion with him. Anybody—I haven't discussed it with anybody like Mr. Mangen or Mr. Alvarez—I mean, I knew they were over here, and I figured that they couldn't talk about what actually went on. The only thing we talked about it was—see, I was supposed, it was postponed twice, but that's as far as it went. It didn't involve anything about what would actually take place during the interview.

Q. And your statement is that as far as Mr. Alvarez and Mangen are concerned, you didn't discuss the substance of the interview?

A. No.

Q. You only talked to them with respect to the fact that you were coming?

A. Right.

Q. And that the interview had been postponed?

A. Right.

Q. Now, who were some of the others you mentioned besides Alvares and Powell?

A. Probably Wayne Thompson, Dick Zabel.

Q. Who's Wayne Thompson?

A. He's just another geologist that works with us.

Q. And how about Dick Sable?

A. He's in the same position, he's a geologist.

Q. What was your discussion with them about?

A. Oh, they said things like, to tell the truth—it wasn't anything specific—nothing specific—they just said, don't worry about it, and answer your questions truthfully, don't answer off the spur of the moment, think about it, that kind of stuff.

Q. And who else now?

A. Probably Sam Lazoo and Bruce Walmesley.

Q. Who are they?

A. Sam's an engineer like myself and Bruce is an engineer like myself. Tom Pappas, I think he's a geologist, but they're just *friends*—that's mainly why these conversations took place. I mean you're just naturally going to talk about something, the word's going to get around.

Q. Well, and again I don't mean this in any accusatory sense, but did you get your story *fixed*, if you will, before you came here?

A. No, I was just, you know, trying to anticipate the questions you were going to ask me. I wasn't trying to make up any stories or anything like that, or fixing up stories in my mind. I just didn't want to come here and—I mean, naturally you're going to be curious about what people are going to ask you and you're going to try to think ahead what they're going to ask you.

Q. How about Dick Sable?

A. Just very little.

Q. What did you talk to him about?

A. Well, the fact that he can't figure out why he's going to be called over here and why he's been called over here, because he didn't have anything to do with this, he didn't have anything to do with this project at all. He didn't work on it, and somehow, somebody or other got his name and they called him up a couple of times to come over here and be interviewed, and he doesn't know why. Neither do I, neither does anybody else. But that was the conversation.

Q. You didn't try to figure out what questions you might be asked?

A. No.

Q. Has anyone suggested that you alter or limit your testimony before us?

A. No.

Q. Are you aware of any oral or written communications respecting the reporting by those interviewed here to anyone?

A. No.

Q. In other words, are you to report back to anyone? on the interview?

A. No.

Q. Now, were you requested to bring any documents with you today?

A. Yes.

Q. Did you bring them?

A. I brought, well, all the data. I guess that was what you wanted, that was all turned in—they collected all that. I guess the Chairman gathered up everything and turned it over to the Senate, but there's only—so I had no information at all, no work papers, no data, or anything. But I *did* happen to go through my files yesterday, what little files I have, and I noticed this particular descrip-

tion of what has been done. It might be of value, it might or be of any value, but it was dated April 9th and it was made out by Lawrence Mangen, and it makes a note on here that when he—well, it says these are four or five things that we did, and it gives the staff that worked on it, and it gives what's called a proposal—actually it tells the status of—it's called a proposal and it's actually what was involved, and it says "Status" on here, and I notice on status it says, "Work papers destroyed." So, it might be some clue as to when they were destroyed. But it might not have any other value.

Q. May I see those?

A. Sure.

Q. Now, as I understand this document, (it's headed?) National Supply Team, then there are various studies listed on here—National Gas Survey Pipeline studies, Offshore Lease studies, miscellaneous. So, were these studies that were going on at that time, is that correct?

A. Yes. National Supply Team, that's the team I worked on—the team's headed by Lawrence Mangen.

Q. And one of those studies was the R-405's?

A. Yes.

Q. And staff on that is Mangen, Powell, and Pavetto?

A. Yes.

Q. On this paper there's a notation: Uncommitted gas reserves for composite report for LTC, per Division Chief, and then says work papers destroyed. Now do you know whether those work papers were destroyed *before* or *after* that composite report for the off — had been prepared?

A. They were destroyed *after*, as far as I know.

Q. As far as you know they were destroyed after. Now, there's a date "April 9th, 1973" on here.

A. Yes.

Q. When would that date have been put on? What's the relevance of that date, as best as *you* understand it?

A. That's, as far as I know, this is where these projects stood on April 9th, and that was the status of those particular projects. I think every team leader has to submit one of these. Who he submits it to, I don't know. The reason why *I* got that one is because they were talked about having *me* do that particular one—I mean, that's more or less bookkeeping, you know, and *I* was going to be doing that. I was going to keep a record of who was doing what, so they gave me that page as an example, and somehow or other, they forgot about it. I never did get that task to do, I never did get that task performed, but I did have that paper showing me an example of how it was done, and I just happened to notice it, and the reason *why* I noticed it is because I was thinking that I—I thought that the papers were sent out to be destroyed at the end of April, in the third week of April, and I noticed that that had April 9th on it, and he had already noted down there, "Work papers destroyed." So, as I say, it might not be worth anything, but if the work papers *were* destroyed then, then it came as a surprise to me, because I thought that they were destroyed some time during the third week in April.

Q. OK, well we'll want to go into that a little more. Now, this is a *group* leader's report, is that right?

A. *Team* leader.

Q. And a report such as this, is that given on any particular chronological basis—in other words . . .

A. I think it's monthly, but I don't know for sure.

Q. So that *someplace* in the Federal Power Commission's files there would be this type of report going back to the beginning of the R-405 investigation?

A. I would say yes. But, like I say, I don't know where that report goes. I imagine it would go up to Tom Joyce's office.

Q. Up to the chief . . . ?

A. Up to the chief bit . . . I mean it *has* to go higher, because somebody wants to know what we're working on, but where I don't know, but I'm sure they would keep those records.

Q. We'll mark this as Exhibit I. We'll photostat a copy of it and get this back to you. Now, other than this document that you've presented us with, you have made a search and determined that you have no other documents or writings of any nature whatsoever relative to the use and disposition of the documents involved in the alleged destruction?

A. That's right.

Q. This is the only thing that you have?

A. Yes.

Q. Now, you did give certain other documents, though, to the investigators of the Federal Power Commission? Is that correct?

A. Yes.

Q. Now, what were those documents to the best of your recollection?

A. They were my work papers, where I had taken information off these 79 letters, 79 responses from the companies, I had taken their information and I had to first go through and check the work done by Joyce Powell. She took these figures and divided, added them up by areas of the United States, and then it was handed to me to check her figures, so that was what I did, so I had that data. It was the breakdown of these reserves submitted on these reports. I turned in those work papers. Then, I had to go through and for each area I had to pick out the four largest companies and the eight largest companies. I did that, and those work papers were turned in also. And that was all the information, that was all the data that I had, all the work papers that I had.

Q. Besides these work papers, were there any other diaries or notes, any other memoranda or anything that you had prepared or that you had in your possession?

A. No.

Q. OK. Now, let's go back, Mr. Pavetto, to the time that you were first assigned to R-405, and I wonder for the record if you could state the approximate date, as best you can remember, when you were assigned and precisely what your duties were with respect to R-405?

A. As best I can remember, it was in September or October, last Fall. I don't, I can't even tell you the month for sure. I know it was last Fall sometime.

Q. September or October of '72?

A. Of '72. It could even be November. I know it was in the Fall.

Q. In the Fall?

A. Yes.

Q. What were your duties with respect to the R-405?

A. My duties were to check the work done by Joyce Powell, and that was taking, by area, taking the figures, adding them up to get a total for Appalachia, a total for South Texas, a total for South Louisiana. It was checking her figures to make sure there was no mistake. That was all it was.

Q. And you did this by what means? By taking her work papers?

A. No, I did it by going back to the letters from the companies.

Q. So, you checked to make sure that the figures that *she* took off the letters supplied by the companies, the questionnaires supplied by the companies, were accurate, is that correct?

A. Yes.

Q. And you checked each and every one of the 79 companies?

A. Yes.

Q. Now, to the best of your knowledge, were all companies that were requested to report, *did* they report?

A. No. There was three or four companies that hadn't reported, so really there weren't 79 letters there, but I couldn't tell you which companies they were because I just—I didn't even know what this whole thing was leading up to. All I know was they threw these papers on my desk and said "Check these figures." So I didn't even know. I hadn't even heard of R405, I hadn't the foggiest idea what this *was*. I thought this was just a simple recheck of what she had done. And I do know that there was companies missing. Maybe at that time I didn't know, I'm not sure, but I did know there was companies missing. At that time, I don't remember if I knew or not, but all I did was check her work, check her figures, check her addition, that was what it was involved.

Q. Now, when you were given the R405 documents from the companies, however many you were given, whether it was 74 or 75, whatever, who gave those documents to you?

A. Lawrence Mangan.

Q. And what was his instructions?

A. His instructions were to take, I think there were 14 areas in the United States, well, however many there were—he said, "Take these areas and take these letters and take these numbers off these letters and fit them in each area and add them up and make sure they agree with the total that Joyce has done." That's what his instructions were.

Q. And did they agree?

A. Yes.

Q. In all instances?

A. Yes—well, they didn't agree right off, I mean, I made mistakes, it took me three days to do this thing, but in the end they all agreed. I didn't find any mistakes on her part.

Q. Now, what instructions did Mr. Mangan give you with respect to the use of the documents and the disposition of the documents?

A. None. He didn't give me any instructions about—you know, what—I didn't even know what project,—I didn't even know it was R405—I didn't know it was uncommitted reserves. All I knew was he just said "Take these figures and add them up."

Q. Did he give you any instructions relative to the administrative confidentiality of these documents?

A. No, but in the letters, I think, it was mentioned. I mean, you know the companies would write in, and a lot of them would stamp "Confidential" on it, and so I gathered that much from reading—not from *reading* the letters, because I didn't really *read* them, but you know, from glancing at the letters, I noticed *that*—but that happens all the time, you know a lot of the stuff that daily comes may have stamped "Confidential" on it because, you know, they don't want the figures spread around.

Q. What's your understanding of confidentiality such as that, who is it confidential to?

A. Anybody that doesn't work for the FPC—I mean, not that I would go tell anybody that *worked* for the FPC, you know, but I mean "Confidential" to me didn't mean the people that work in the same office as *I* did, it means if somebody came up to me and asked me about this information, well, I wouldn't—I mean, you can't tell them, because it's none of their business. But if somebody worked for the FPC, if they were to *call* me, then, we're working for the same organization and confidentiality would *stop* there.

Q. So that in *your* viewpoint at least, any confidentiality caveat would *not* apply to other employees of the Power Commission, is that correct?

A. Yes, if they were working on something that they could use the information. I mean, if somebody just called me up from some office downstairs and said, "Hey, can you tell me this," well, I you know, I wouldn't tell him without asking.

Q. If someone from the Office of Economics would have to come to *you* during this period and would have asked *you* to let them look at those documents, would you have refused?

A. I would have had to refuse, yes, and sent them to Mangen.

Q. Why?

A. Because, I wouldn't feel responsible for making a decision like that. It's better for him. I mean, you know it says you can't discuss this information—it's supposed to be confidential—well confidential for someone working on the same office that *I* was in, the same *team*, well then, it's not confidential. But someone working for the Office of Economics, I would have asked Mangen if it was all right for this guy to look at the data.

Q. Is that because you believe that confidentiality *would* apply to other employees of the Federal Power Commission?

A. Yes, because there were so many calls from the Office of Economics, I probably wouldn't know the guy, and since, you know, I could have got myself in trouble by showing somebody something they weren't *supposed* to see I would have checked with Mangen, I'm sure. I would have had *him* go through Mangen if he wanted the information from *me*.

Q. How about if someone from the Office of Gas, were to ask you to let you see the papers? the Bureau of Natural Gas?

A. Ah, if I knew the person—either way, I still have to go through him.

Q. So, before you would turn anything over to anyone, you would first of all go through Mangan, is that correct?

A. Yes.

Q. Would that include Joyce Powell?

A. No, because we both worked on the same project. I couldn't withhold anything from her because we worked together on it.

Q. How about Vic Zable?

A. No, I wouldn't have withheld the information from him because we worked in the same office.

Q. How about Wilson?

A. No.

Q. You mean you wouldn't have withheld it from him?

A. No.

Q. How about Thompson?

A. No.

Q. Barnes?

A. No.

Q. Bailey?

A. No.

Q. Miss Dante?

A. Yes. No, I mean, I wouldn't have withheld the project from *any* of those people, because, like I said, we all worked together, and you know, we work in teams, we don't work by *ourselves* on a project, so, confidentiality holds from without your office, but right *within* your office, and some people might be working on the same project, you can't assume—if they wanted strict confidentiality, then it's up to *them* to tell you "Don't show this to *anybody* at all."

Q. Well, now, what *were* you told about these documents by Mr. Mangan, were you told that they were super secret documents?

A. When this first assignment came up? No—like I say, I wasn't told anything, I was just told to add these figures. He didn't say anything about confidentiality, he didn't say anything about what project it was going into, he didn't say anything about R-405, he didn't say anything about where the final report went, or even if there *was* a final report—he just merely threw these letters on my desk and said "Here, add these figures up and do it this way and make sure the ones Joyce did are right."

Q. Did he tell you to lock them up at night?

A. No.

Q. What did you do with them when you left your desk?

A. I just left them on my desk.

Q. You didn't lock them up at night? after you left the office?

A. No—it's impossible, I can't even lock my desk.

Q. As I recall, you indicated that you first got these documents in the Fall of '72 and you worked on them about three days?

A. About three days, it took me to do that, yes.

Q. And then, what did you do with the documents?

A. I returned them to him, Mr. Mangan.

Q. And when did you see these documents *again*?

A. The next time I saw them was in the winter, I guess it was February, I couldn't tell you exactly, I know it was in the winter, I know it was sometime in late—January or early February.

Q. What was the purpose of your seeing the documents at that time?

A. Because we got a call from a guy, I think his name was Mel Kafkin, in the Office of Economics—no, no, I'm wrong on that—yes, that would be right, because some time between November and February is when they came up with this idea of taking the four largest producers and the eight largest producers and I did that study, but I didn't see the documents, I just saw my own work papers. The next time I saw the documents was when Mel Kafkin called up. He wanted to know why there was mistakes in the four largest and eight largest.

Q. Now, when was *that*?

A. That was in, I would say February. I can't narrow it down any closer than that.

Q. And so, what did you do at that time?

A. So then, I had to go through and recheck the work I had done on the four largest and the eight largest.

Q. Now, going back to when you did the work on your work papers, precisely how did you get that assignment?

A. How? That I have no idea about, I guess it was just a *whim* of Mr. Mangan.

Q. Well, did Mr. Mangan tell you to come up with the four largest and eight largest?

A. Yes.

Q. Did he tell you what it was to be used for?

A. No.

Q. Did he tell you that he had talked to Kofkin?

A. No, he didn't say that he had talked to anybody, that I—I didn't know this guy Kofkin until he called me and wanted to know the source of these mistakes.

So, all I know is—now, he probably said, *Who* wanted the four largest and the eight largest, but I can't say for sure who wanted it, but that's basically all he said, just get the four largest and the eight largest.

Q. OK, now you went through your work papers?

A. Yes, I used my own work papers to come up with this.

Q. And what did you do with that information?

A. I put it all on one of those big green sheets of paper and I turned it in to him and I kept my own work papers.

Q. Mr. Mangen? OK. Then, you next heard about this when Kofkin called you and asked about mistakes, is that right? And to the best of your knowledge, that was in February '73?

A. Yes. Probably late February.

Q. OK. Now, can you relate as best you can from your memory the conversation you had with Kofkin at that time?

A. Yes. He called me and he identified the R405 thing. He didn't say anything about the four largest and the eight largest, but he *did* say "R405" and a bunch of other stuff. And I didn't recognize what he was talking about because I didn't know what final report all this stuff went into. So, I told him that I didn't know what he was talking about, I didn't work on the data because I didn't know where it went. I didn't know that *that* was the project I had *worked* on, so he called Mangen then, and then Mangen came over to me and that's when he gave me the old information, that's the papers I had turned into him, and he said, "Do you remember *this* stuff?" And I said, "Yeah." "Well, that's the stuff that Kofkin was talking about." So, that was the first that I realized what happened to the figures when I got done with them. So anyway, Kofkin said that he would come over first—well, he asked me to check a couple of areas—I don't remember which ones they were. I *do* remember one of them was Texas but I couldn't tell you if it was the Gulf Coast or which railroad districts. Anyway, he asked me to recheck that. He wanted to know why the total for the four largest producers was different from the total that showed up on that initial R405 thing, the final report. He wanted to know why those figures differed. So I remember going through and checking that particular area. I think it was Texas Gulf Coast, but I'm not sure. There were several other areas where there were several minor mistakes. So I went through and rechecked *my* work to see if I had made the mistakes, and if I had, where they were. So *that* was the extent of my dealings with Milt Kofkin.

Q. Well, what did you find when you went through to check?

A. I *found* that—I couldn't find the mistakes. I couldn't find the mistakes I had made. I couldn't find the mistakes in my work. That's what I found.

Q. Well, could you explain in *your own* mind to yourself, did you have an understanding as to why the *public* information varied from the information that you had worked up?

A. At that time? No. I couldn't explain it. There was only minor mistakes. But I couldn't explain it. It wasn't til later that I found out *why* there was mistakes.

Q. Why?

A. Well, I had checked the work done by Joyce Powell on these 70 odd companies on uncommitted reserves. OK. Then I worked up the four largest and the eight largest from my own work papers. OK. And I didn't see those letters again, I hadn't seen them. OK. So this Mel Kofkin called up and he wanted to know why the—you see, four largest and eight largest—OK. Now some of those areas only have, maybe one producer, maybe producers. OK. So, when I did the four largest, well naturally, if there was only a couple of producers, the total for the area should have been equal to the total of the four largest, right? So there was mistakes like that. Well, I couldn't explain. I checked my work, and as far as I remember I couldn't find any mistakes in my work, so I just defended myself. I said, "WELL, I didn't make any mistakes in *my* work, so I don't know where the mistakes *were*." I *didn't* know where the mistakes were then. So evidently, this guy Kofkin, didn't let up on Mangen, because shortly after that, Mangen gave me the *whole works* again, and he said, "Here, check everything." He gave me the letters too, and he said, "Here, check everything and find those mistakes." So, myself and Joyce Powell started checking through all these things again. She just did it—

Q. Now, when was this, to the best of your recollection?

A. We were trying to figure out, to try to check, why the four largest and the eight largest totals didn't always agree with that R405 report that was—

Q. Approximately when was this?

A. This was in the middle of February or the beginning of March.

Q. OK. Go ahead. I'm sorry.

A. This was right after Kofkin had called, shortly after that, about the mistakes. So anyway, we were checking, Joyee and myself, she was helping me, not because anybody told her to, but just because I had all this work to do, and she had worked on it and she saw me working on it again, so she came over to help me. So we were working on it—we worked all afternoon, trying to go back through there and trying to find out where our mistakes were, why certain figures—that were obviously these minor mistakes. So the next morning—we couldn't find any mistakes. So the next morning, Mr. Mangen came in and he said, "I remember now why those mistakes were in the report." And he said, "Some companies had filed late and some companies had filed by phone—one company as far as I know—had filed by phone instead of sending a letter." So, what he had done, he had taken these late filings, and he had changed the tables on the R-405 thing just before it went to be printed. He had changed the tables, but he didn't change the totals at the bottom and he didn't change the totals at the side—I think there was totals on the side, too. So he just went—he changed the tables, but he didn't change the information that depended on that other data. So that's why—that's why our—the four largest and the eight largest didn't agree with the minor report on our R-405, because he made the changes, he didn't change the totals, and he never told anybody he made the changes and he never changed the work papers. So that was the source of the mistakes.

Q. Did you actually meet Kofkin during this period of time?

A. Yes.

Q. When was that approximately?

A. That was approximately the first week of March, the last week of February—some time right in there.

Q. And what happened at this meeting?

A. He just came over, he showed me exactly where he thought I had made mistakes—exactly which areas. One of them was Texas, Gulf Coast I think it was—and he showed me where my figure for that total didn't agree with R-405 total. And he had said, "Would you please check through your work again and see where your mistake was." I said, "OK, I'll check through my work, but I have checked some of this and I can't find any mistakes on my part. But I went through and I checked them again, and like I said, I didn't find any mistakes. It wasn't 'til Mangen made his great revelation about changing the R-405 without telling anybody—it wasn't 'til then that I realized that it wasn't my mistakes that caused the discrepancy."

Q. Now, did you ever tell Kofkin that you couldn't furnish corrections because the original documents had been destroyed?

A. Did I ever tell him that? No.

Q. Did you ever tell anyone, from the Bureau of Economics, or from any other office in the Federal Power Commission that the documents had been destroyed?

A. No.

Q. Now, when you met with Kofkin, did you ever give him any corrections?

A. As far as I recall, there wasn't any corrections to give him. As far as I recall, I didn't make any mistakes on that—the four largest and eight largest. I might be wrong, I might have had a mistake, but I don't think I did—I don't think there was any corrections for me to give him, other than just telling him. "As far as I know, I haven't made any mistakes."

Q. So that at no time, did you give Kofkin corrections, is that correct?

A. I can't say that for positive, because like I said, I think I didn't really make any mistakes on that, but I can't really swear to it.

Q. Now, when did Mangen tell you that he knew where the errors were coming from?

A. The exact date?

Q. Well, to the best of your recollection.

A. I don't know—I know it was after Kofkin—

Q. After the Kofkin meeting?

A. Yes. I don't know when.

Q. Did you get in touch with Kofkin then and say, "I found out where the mistakes were?"

A. No. No.

Q. Why?

A. I assumed that Mangan was going to do it. I assumed that was his responsibility, not mine. Whether he did it or not, I don't know, but it wasn't my responsibility to get in touch with Kofkin.

Q. And did you ever make any corrections to either your work papers or to papers that you may have made up for Kofkin or anyone else?

A. Did I make corrections? That I couldn't tell you for sure. I *think* I didn't.

Q. You did *not*?

A. I think I did *not* make any corrections because I think I did *not* have any mistakes, but I couldn't swear to it. I may have made a mistake and had it corrected.

Q. Well, not—you know, not talking about *your* mistakes, did you ever make any corrections after Mr. Mangan had told you what the basis of the varying figures were?

A. No, I think *he* did that. I think that once he came up with his reason *why* there were discrepancies, I *think* that we deposited the papers on *his* desk and he would take care of it from then on in,—I *think*—I really don't remember for sure.

Q. Were *you* in charge of the work papers in the 79 company questionnaires?

A. What do you mean, "in charge of them?"

Q. Well, were they in your possession? Were you the one that *had* . . .

A. No. No. They were in *Mangan's* possession. I mean, I *used* them—I used them the first time I had to do that little project.

Q. You used the 79 questionnaires—or 75, or however many—for three days?

A. Yes.

Q. In the fall of '72?

A. Yes. I used them then.

Q. And you used them again *when*?

A. I used them again after Kofkin had called wanting to know why there was discrepancies. Then I had to check my figures for the four largest and the eight largest, and I also had to check the *original* file report on R405 to see if there was mistakes *there*. That was the amount of the (?) checking out the third time, and I used the letters then.

Q. Now, was this from the work papers or was it from the letters?

A. From the letters.

Q. And how long did you have the letters at that time?

A. I had them a half a day.

Q. And this was to the best of your recollection, in mid-February?

A. This was—ah, late February or early March.

Q. And you *did* the four and eight company figures at that time?

A. I *checked* them at that time. I *did* them originally in the middle of February, late January.

Q. And these were done from your work papers?

A. Yes. Right. The first time I did those, I did them from my work papers.

Q. Then you checked them against 79 company letters?

A. Yes. Well—yes.

Q. And that took you how long?

A. That took us half a day. I worked on it half a day, because the next day was the day Mangan came in and said that he knew where the source of the mistakes *was*. So then, as far as I was concerned, I was *done*. I turned the stuff over, back to him.

Q. To Mangan?

A. Yes.

Q. And you never did any further work from that time on, on these questionnaires?

A. Right. Right—until this whole thing blew up. I *did* work after that.

Q. When?

A. Later on after the papers had been sent to be destroyed, after they had been torn up, after they had been put back together, then they decided that they wanted the four largest, the eight largest, and the *twenty* largest.

Q. For what purposes?

A. *That* I don't know. I assumed, I guess—Mangan said it was for the Chairman. So as far as I know for what purpose, for the Chairman. I assumed it was for the Chairman when he testified before the Senate. That was shortly before he testified. That was about two or three weeks ago.

He wanted—the word came down that the chairman wanted the four largest, the eight largest, and the twenty largest, so . . .

Q. What date was this approximately, to the best of your recollection?

A. Well, it was the week preceding when the chairman testified. So it was three weeks ago, I think.

Q. The week preceding when the chairman testified before the Senate Anti-trust Committee?

A. Right. He testified starting on a Tuesday,—I don't remember what date, but I remember it was a Tuesday, and it was the week preceding

Q. Now you originally did the four and eight company figures for the Office of Economics, is that right?

A. I didn't know who I was doing it for. Yes, I did it, but who I was doing it for I didn't know.

Q. And this was in mid-February approximately?

A. Yes—or late January.

Q. And Mangen instructed you to do this?

A. Yes.

Q. Mangen didn't tell you what it was for?

A. As far as I know, he didn't, no.

Q. OK. And then you gave this material to Mangen?

A. Yes.

Q. And you didn't know what happened to this material, is that right?

A. That's right.

Q. And the next thing you knew about it was when Kofkin called about it?

A. Yes.

Q. He called *you*, is that correct?

A. I don't know who he called first. I think he called Mangen first to find out who actually did the work. I think Mangen referred him to me, and then when he called me the first time, I told him I didn't know what he was talking about, because I really *didn't*. And then, I think he called Mangen back and Mangen explained it to me what it was. And then he came over that—Kofkin came over that afternoon to see me and it was then that he pointed out exactly where the errors were.

Q. OK, now, how long after you gave the four company figures to Mangen did Kofkin call you?

A. I would say, three to four weeks. It was long enough for me to forget about this four largest and eight largest. I had forgotten about it, and I was kind of surprised that he was bringing it up, because it seemed like I had done it so long ago—four or five weeks—three, four or five weeks.

Q. To the best of your recollection it was late February or early March when Kofkin called?

A. Yes, it was in late February or early March when he called about the mistakes.

Q. When he went over to see you in your office?

A. Yes.

Q. And he compared the figures that you had worked up with the figures contained in the public document, is that right?

A. That's right.

Q. And he said, "Hey, there must be a mistake here."

A. Yes.

Q. And at that time you went over your papers and couldn't find any mistakes?

A. As far as I know, I couldn't find any mistakes, that's right.

Q. And so, did you tell Kofkin this?

A. Yes.

Q. Well what did Kofkin say?

A. He said,—I think he said, "I'll talk to Mangen about it." I don't remember exactly what he said.

Q. And that's the *last* you had to do with it until you did the four, eight, and twenty company figures?

A. No, no, no.

Q. I'm sorry.

A. That's the last I had to do with it until Mangen came to us and said, "Here are the four largest, eight largest, here is the final report from R-405. Check both of these again to see where these mistakes are."

Q. OK. And what did you do then?

A. I—let me get my bearings here—Right. That's when we started checking the final report of R-405 again and also checking the four largest and eight largest again.

Q. Against the 79 questionnaires?

A. No. Well, we never got that far. See, we had two things to check here. One, we had to check R-405 through the third time. Actually, essentially it was the third time it had been checked.

Q. That's the public document?

A. Right. And also, I had to check the four largest and eight largest. Now, I never got far enough along to compare the two, because I worked on it for an afternoon and I got, you know, maybe a third of the way through it, and that's when Mangan realized where the mistakes were, where the source of the mistakes—once he realized that, we didn't finish the rest of it because there was no need to because he remembered the—why the mistakes were there.

Q. And then, you didn't say anything to Kofkin about this?

A. No, because I assumed that—it was *Mangan's* responsibility from there on in, so what transpired between he and Kofkin, I don't know, but as far as I was concerned, I was off the hook.

Q. Now, you had these 79 questionnaires on two or on three occasions? You had them first of all in the Fall of '72, right?

A. Yes.

Q. And then you had them in early February of '73, is that correct?

A. Well, it was late February or early March—I had them twice.

Q. Why twice?

A. First time to check the R-405 and then the next time I had them was to check R-405 again so that I could compare with the four largest and eight largest, so I had them twice.

Q. OK. Now, the *second* time you had them—that was late February or early March?

A. Yes—right.

Q. Did you lock those up when you'd been using them?

A. No.

Q. Were you given any instructions concerning those?

A. No. I just left them out on my desk like I had done before.

Q. And how long a period of time was this?

A. One day. I started about noon and I had them—I worked on them for half a day, I left them on the desk that night, and the first thing the next morning was when Mr. Magnan came in. He said, "I remember where the mistakes are at now." And that was all. And he took them back, the papers.

Q. Now, at any of the times that you were doing the original work for the Office of Economics or you were looking to see if there were any errors, was there any discussion that *you* know of with respect to the use of these documents in the *Belfort* case?

A. No. I never even heard of the Belfort (?) case till this minute.

Q. You're not aware of the Belfort case at all?

A. No.

Q. Were you not aware that the Office of Economics testified in that case?

A. I'm aware that two men from the Office of Economics testified, but I read it in the paper. I don't know what case they were on.

Q. You didn't know at all that the Office of Economics wanted this foreign aid company material for use in a Federal Power Commission proceeding—a Federal Power Commission rate case?

A. No. I did not know that.

Q. Did you have any idea, did you have any thought as to why the Office of Economics wanted this material?

A. Yes, I had a thought.

Q. What was your thought?

A. I assumed it was going to go in on one of those numerous reports, descriptive reports, data reports put out by the FPC. I didn't know it had anything to do with any case.

Q. Well, do you know whether or not the 4 & 8 company figures were ever corrected?

A. No. I don't know.

Q. You don't know whether they were ever corrected?

A. No. I don't know that there was any corrections to be made. As far as I was concerned, there weren't any.

Q. I see. As far as your figures were concerned?

A. Yes. I don't know if anybody else has ever made any corrections on it or not.

Q. There could have been a mistake—not in terms of *your* making a mistake or *anyone's* making a mistake, but there could have been a mistake in terms of there was an *omission* of certain companies at first, is that right?

A. The four and eight largest? Yes, there could have been because not all the work papers—not all the companies had filed as far as I know. Yes, that's true, there could have been an omission.

Q. But, you didn't do anything after Mangan told you that he knew where the mistake was.

A. That's right.

Q. To check to see whether or not there had been an omission or anything like that.

A. That's right. I didn't do anything on it after that.

Q. Now, prior to your talking to Kofkin, when he indicated that there were some errors, he asked you to check, did you with respect to these 79 company questionnaires, talk to Kofkin or anyone else in the Office of Economics with respect to them?

A. No.

Q. So your only contact with anyone from the Office of Economics was on the one occasion when Kofkin came over and talked to you about possible errors.

A. That's right. Yes, that's correct.

Q. OK. Now, when did you first become aware of the first possibility of these documents being destroyed?

A. Shortly after Kofkin came over to see me, which would be about the second week of March, early March.

Q. And can you relate how you became aware of that fact?

A. Yes, I think the whole thing started when Mr. Mangan said something to the effect of "I had to get rid of these papers" or "these papers are, you know, a big pain in the neck" or some such or other. I thought he was kidding, of course, the first time he mentioned it, but he . . .

Q. When was this, approximately?

A. I would say the second week of March.

Q. OK and precisely, to the best of your recollection, what did Mangan say?

A. I think he said the very first time, I think he said, "Boy I ought to get rid of these papers, I'm tired of this stuff getting back to us. I ought to have them destroyed." I thought he was kidding.

Q. Well, what do you mean, he was tired of this stuff getting back to him?

A. Well, I think it *bothered* him that, you know, this Office of Economics, particularly Mr. Kofkin, was calling over here about *mistakes*. I mean, nobody likes to have somebody call over and say, "Hey, your report's wrong, here's a mistake." And I think that bothered him, and Kofkin was persistent—I can see now why he *was* persistent—and at the time I thought, at the time, I thought that Kofkin was being a little *too* picky because the mistakes were very minor. But I didn't know the importance that these papers had. I didn't know it was going to go into any case. I thought that it was for some report put out—some public report. And I thought, Well, eripe, he's really being about these minor mistakes. But anyway, Mangan was disturbed by the fact that Kofkin was so persistent about these mistakes and he wanted to get them cleared up, and I think that bothered him. That was—I think that bothered him, and then when he mentioned the fact that he ought to have those papers destroyed, I assumed that, you know, Kofkin was bugging him—Kofkin was bothering him, and he could get himself off the hook by saying, "Well, too bad, these papers are gone, this project's dead, quit bothering us."

Q. And this was approximately the second week in March?

A. Yes.

Q. He mentioned this?

A. Yes.

Q. Was anyone else there during this conversation that you had with him?

A. Well, no one was actually *there*. This was when our offices were in the General Accounting Office, and we had a big room separated by partition, so, and it was like Mangan would come out of his office, like coming out of that room and my desk would be about right where I'm at now. So, I think he came out of his office and he just said to me, "These papers are a big pain, I ought to have these papers destroyed." So there was nobody else *there*, during this conversation, but actually the whole office could have been at their desks. There was no separation between, all we had was a partition between desks.

Q. Now, you say you think this was about the second week in March?

A. Yes.

Q. What brings you to that conclusion?

A. I'm just basically relating everything as I think what had happened and I know that it happened last winter. I know the chronology, but I don't know the exact dates. So, I know about—I know when I did the first checking, that was back in the Fall. And I know about when I did the four largest and the eight largest, and I know that Kofkin came over wanting to know the mistakes and then I know that after that, that disturbed Mangen, and in order of what happened, that was the first time I heard him say, "These papers ought to be destroyed." So that's why I say, that puts me in about the second week of March, because I know that—and also, the fact that we moved over to our new offices on May 7th, so this all happened before May 7th, so I mean, working forward and working backward, I'm trying to put it in, when I think it all happened, so that's why I say about the second week of March.

Q. Now, after Kofkin came over to you and said that there were mistakes, and again, this has no innuendo, all I'm trying to do is pin down as precisely as I can the dates and the circumstances surrounding the attempted destruction—now, I take it that you were a little piqued, as you indicated earlier—and thought that Kofkin was being a little too picky at this time.

A. Yes, I did at the time.

Q. Did you report this to Mangen?

A. No.

Q. Did you talk to Mangen with respect to your conversation with Kofkin?

A. I didn't have to, the office was so close he could hear what I was saying.

Q. Well, did you talk to him at all about it, or did he talk to you at all, after Kofkin left, did he come in to you?

A. I think he did.

Q. What did he say?

A. I think he said something to the effect, "I wish this guy Kofkin would get off my back."

Q. And he expressed displeasure with respect to the fact that Mangen—er, Kofkin was bugging him?

A. Yes, he expressed displeasure.

Q. Now, how soon after that would you say it was that Mangen said to you, "Hey, I should get rid of these papers?"

A. Well, within a week—very shortly after that—very shortly afterward.

Q. Could it have been the same day?

A. It could be. I couldn't say for sure. It could have been the same day.

Q. In your mind, did you connect his statement that "I should get rid of these papers" with the fact that Kofkin was bugging him?

A. Yes.

Q. Now, did Mangen ever indicate to you that Sen. Hart was bugging also?

A. No. I didn't hear anything about Senator Hart until I read the first time this thing came out in the Post on a Sunday night. I didn't have the foggiest idea about Senator Hart or anybody being involved in this thing.

Q. Is it possible that when Mangen indicated that people were bugging him, that it could have included Senator Hart as well?

A. It's possible, but I doubt it. That's all I can say—I can say, it's possible and I can say I doubt it, and that's all I know, because Mangen was never very open about anything in this whole situation. This whole situation was never very open, with *me* about it anyway, and I *doubt* any connection with Hart because it was basically—as far as I know Kofkin was the only guy that was giving us a hard time, but—you know, like I said, Mangen was never very open and so I can't say that it was *impossible*—I can't say that he never heard of Hart because I just don't know.

Q. OK. So, you had that conversation with Mangen.

A. Yes. Now, this wasn't just one conversation.

Q. Oh.

A. It could have been just casual comment—I really don't remember exactly what happened, but I *do* know, like I said, that the first time he said that, about the papers' being destroyed, I thought he was kidding, because he said it in kind of a joking way, so I mean, later on he might have even mentioned it again and said, "I'm going to have these papers destroyed," so don't limit it to one conversation.

Q. OK, I won't. In order that we can get precisely all the information, I wonder if you could try to recollect your thoughts and indicate whether you think there may have been another or more conversations with Mangen on this subject.

A. Well there could well have been, see, because we were working in so close quarters there that, you know, you didn't have to go see somebody to converse with them, you just—everybody else—you just yelled, you know, I mean you just talked and everybody could hear you. So that's what I mean, it's very difficult to remember because everything is just kind of a blur, there's no specific conversation on this date, specific conversation on this date, you know.

Q. But as far as you're concerned, you had at that time, an impression in your own mind that Mangen wanted those papers destroyed because people were bugging him, is that right?

A. Yes. Well one person was bugging him.

Q. All right, one person was bugging him.

A. Yes.

Q. Now, was this also general knowledge of the office, as you say?

A. No.

Q. Well, if you're in such close proximity and you're yelling back and forth, why . . . wouldn't other people be aware of this?

A. Other people could be aware of it, but . . . you don't always listen to what's going on around you—I mean, I can't say what anybody else knows—I don't know what they know.

Q. Well, did you have conversations with anyone else besides Mangen with respect to the possibility of destroying the documents?

A. No.

Q. None of the other workers?

A. No.

Q. Not Zabel or——

A. No.

Q. Shirley Powell?

A. No. . . It's possible, but I doubt it very much because nobody else was working on this thing except myself, and originally it was Joyce Powell that worked on it, but later on, when it was four largest and eight largest, basically it was myself and Mr. Mangen. So I doubt that anybody else was in on these conversations, but like I said, we could be overheard easily. And I didn't talk to anyone else about it as far as I can remember . . . because, like I said, I thought he was kidding, I didn't take him seriously at first.

Q. Did you overhear Mangen talking to anybody else about it?

A. Not that I can recall, no.

Q. Now, at first you thought he was kidding. Was there another time that you thought he was serious?

A. Yes.

Q. When?

A. About, I should say, about a week later, about two weeks later, it could be even three weeks later. It was some time towards the end of March that he said, "I'm going to have these papers destroyed."

Q. So, then, it could have been the end of March or early April that he said, "I'm going to have these papers destroyed."

A. Yes.

Q. Now how do you know this time period?

A. Just trying to put them in order, just trying to estimate how much time—I'm trying to estimate how, you know, how much time elapsed between the time when he first said it and I thought he was kidding and the time he said it for sure that he was going to do it, and I think it could be anywhere from two days to three weeks in between that time.

Q. Now, in Mr. Kofkin's interview, he indicated that on April 3rd, he got some corrections. Now, your statement is that he didn't get these corrections from you, is that correct?

A. That's correct as far as I can remember, yes.

Q. You don't remember making any corrections for him?

A. That's right.

Q. All right. Now Mr. Kofkin also indicated that on April 4 or 5, I believe he has a diary which we received as an exhibit, and there is a notation on it as I recall—anyhow, Kofkin said that on April 4 or 5 Mangen told him that the papers were destroyed last week.

A. That could be . . . I mean, I can't dispute Kofkin, but I *can* say that I think . . . Mangen might have told him that the papers were destroyed before they actually were destroyed.

Q. What makes you think that?

A. Because I'm under the impression that the papers were destroyed, actually sent down for destruction at the end of April, like I said, that week of the 20th or 25th of April—the third week of April, and that's where I would pinpoint the actual taking the papers down for destruction. Now—and I—it's very possible that he told Kofkin that they were destroyed, even though they weren't destroyed.

Q. Well, did Mangen at all indicate to you that he *had* told Kofkin that the documents were destroyed?

A. That's what I'm really hazy on—I just don't—he might have hinted around at it—I don't have any clear recollection of him saying that he told Kofkin they were destroyed—I just can't say, because I don't know what he said to Kofkin, and I don't remember what he said *after* he talked to Kofkin, I don't remember what he said to me—so I just don't know, you know, what he told Kofkin.

Q. But for some reason, you seem to have some kind of an impression that maybe Mangen told Kofkin that the documents were destroyed when in fact they weren't destroyed?

A. Yes, for some reason I have that impression, but *why*, I don't know. It's hazy—maybe it's because that just came out, recently, I just don't know. I could see him *doing* that, you know. I could see him *telling* Kofkin that, just to get him off his back. He was upset because Kofkin was on his back, and I could see him, easily see him telling you know, a little white lie, or whatever you want to say, to get Kofkin off his back.

Q. Now, in the April 9th report which you gave us, which you identified as Exhibit #1, it dates April 9th and it says, "Work papers destroyed."

A. I don't know. That's what shocked me, because I thought it was, you know, the third week of April, and here he has this thing being April 9th and has "Work papers destroyed" on it, which, if that's true, that shoots down my idea about it being the third week of April when they were actually destroyed.

Q. Well, could there be a difference between "work papers" and the actual 79 companies' documents?

A. Yes, there could be.

Q. So, this could refer to something else?

A. That's right. That's right, you're right.

Q. Did you see the documents that were removed from the burned bag?

A. Yes.

Q. Now, do you know whether in addition to the 79 company reports, there were other work papers in that burned bag?

A. Yes, there were. There was work papers. There was *all* work papers, in fact.

Q. Whose work papers?

A. Joyce Powell's, from way back in the Fall of '72.

Q. How about *your* work papers?

A. No. Mine weren't in there. Well, I had very few work papers. What I did, I put the stuff on those big green sheets and I turned those in to Mangen, and—the rest of—I did my work—she did her work on nice graph paper and everything and I just scribbled mine, so I had very few sheets, but I don't know what happened to them. I had them in my desk until they came around collecting all the information and then they went too. When that happened, I wasn't at work that day, I was off that day and Mr. Mangen told me he went through my desk and my drawer and took the papers.

Q. Now, this was when?

A. This was after the whole thing had—just before the chairman testified.

Q. So this was in June?

A. Yes, when they collected all the work papers that they had. See, the papers, "work papers destroyed"—that could easily have been the work—Joyce Powell's work papers and not the letters—that's right.

Q. Now, does Mangen have a copy of this National Supply Team report?

A. He should, unless that was his only copy. He should have a copy of that. That's where I got that copy.

Q. Why don't we take a break for five minutes. Mr. Pavetto, I have here the Federal Power Commission's executive director's report on the investigation on and the handling of confidential gas reserve data filed by producers pursuant to the order of the Commission issued September 12, 1972, R-405, and I'd like to read from it and get your impressions with respect to the representations made

in this memorandum. It says, Over the next several months all 79 of the large producers listed in Appendix A, in the September 12, 1972, Quarter, filed the required information with respect to their gas reserves available for sale or filed statements to the effect that they had no uncommitted reserves. Now, as I recall, you indicated that some of these companies filed late statements and some of them filed over the telephone. Is that correct?

A. That's correct. Some of them filed late and one filed by phone. They *may* have sent a letter after that, but they filed by phone as far as I know.

Q. "As the data were received, the information apparently was closely held by Mangen, kept under lock in his office and taken out only for purposes of extractions and computations by him, or Carl Pavetto, or Joyce Powell, in his section." Now, does that meet with your understanding of what happened?

A. No, because they weren't under lock as far as I know, because there was not a thing in that office that locked—well, they were in a file cabinet, and as far as I know, that file cabinet wasn't locked. I might be wrong, and it might be a minor point, but it's a point of discrepancy—I don't think those things were locked.

Q. And when you had them, you never kept them under lock and key. "The safe in the office of the Chief of the Bureau of Natural Gas now contains a number of work sheets which identify figures with individual companies, and therefore, like the company filing from which they were extracted, are confidential." Now this safe, that's in the Office of the Chief of the Bureau of Natural Gas, to your knowledge, were the documents ever kept in that safe prior to the time they were ripped and placed in the "Burn" bag?

A. No, to my knowledge they weren't.

Q. Now, to your knowledge, after those documents had been retrieved from the burned bag, were they kept in the safe?

A. Whose safe did you say this was?

Q. A safe in the office of the Chief of the Bureau of Natural Gas.

A. Ah—yes it was—they were kept in a safe—I don't know where the safe was.

Q. How do you know they were kept in a safe?

A. Well, Mangen said—they were kept in a safe. He said they were kept in a safe.

Q. After they were retrieved from the burned bag?

A. Yes.

Q. But, they were *not* kept in a safe before they went into the burned bag, is that right?

A. As far as I know, that's right. No, they weren't kept in that safe until after they were put back together.

Q. After they'd been scotch-taped together?

A. While they were being put back together, they were just laying out on the table in that office. The office might have been locked, but they were just spread out on the table. We didn't pack up every night, we just left them there.

Q. Just left them?

A. While they were torn up, yes.

Q. Now, in addition, Mangen has produced some 43 work sheets which consist of schedules of aggregated figures which do not reveal the reserves information figures of individual companies. Now what are those 43 work sheets? Do you know?

A. They were probably the ones he collected from myself and from Joyce Powell. Now, on those four largest and eight largest, I think they would be in there, the work sheets on that would probably be in there. Now, I did those, I think by area, and without writing the name of this company—No—that's not true either—I really don't remember—I really can't say because I don't know—I couldn't tell you if they would reveal the data by company or not. I'm pretty sure that *my* work papers are in with those 43, but I don't know what they would be.

Q. OK. . . . Now, this report goes on to say, "On March 7, 1973, Senator Philip A. Hart, Chairman of the Senate Subcommittee on Antitrust Monopoly of the Senate Judiciary requested by letter that the Federal Power Commission provide his Subcommittee and the Federal Trade Commission certain information as to the manner in which the data in the updated nationwide investigation in the R-405 was collected, verified, and analyzed, together with the identity of each producer's pipeline customers, amounts of gas sold to each, and the price obtained therefor during the 1970-1971 period. Were you aware of that March 7th request by Sen. Hart?"

A. No.

Q. Was it never discussed with you?

A. No.

Q. By letter of March 20, 1973, from Thomas J. Joyce, Chief of the Commission's Bureau of Natural Gas, Sen. Hart was supplied with the requested information except the detailed data on specified reserves held by individual producers. Were you aware of that letter of March 20 that Thomas Joyce wrote?

A. No.

Q. It actually was written by Mr. Mangen is our understanding, and Mr. Mangen never discussed with you a letter that he was preparing for Sen. Hart?

A. No, he didn't.

Q. And you never heard him dictating a letter to Sen. Hart?

A. He doesn't dictate, as far as I know, he writes it out. But, he never said anything to me about it.

Q. OK. By memorandum of April 6, 1973, according to this, Mr. Kofkin transmitted to Dr. Wilson a work sheet setting forth concentration ratios for the four and eight largest producers by area, apparently prepared from the report published on Feb. 22, 1973. The administratively confidential report by BMG dated March 21, 1973, and corrections supplied by Mangen on or about April 3, 1973. Now, this indicates that there were some corrections supplied by Mangen on or about April 3, 1973. Do you know anything about these corrections?

A. You lost me in all those reports. I don't know which—

Q. Why don't you look at the last paragraph?

A. [reads] "He sent a worksheet setting for the four and eight" . . . I don't know what . . . now, what report is he talking about published Feb. 22? Is that the R-405?

Q. Yes.

A. OK. Now, that is incorrect right there, because I didn't prepare the four and eight largest from the report R-405, I prepared it from my own work sheet that I used on R-405.

Q. You prepared that in Feb. of 1972, is that correct?

A. I think so, yes.

Q. And you transmitted it to Mangen in Feb. of '72?

A. Early February or late January?

Q. Early February or late January?

A. Yes. It had to be early February because there was a fair amount of time between the time I turned it in and Kofkin called about the mistakes—at least two or three weeks, which would put it to the first of February.

Q. Well, it would appear according to that, that Mangen didn't give it to Kofkin until March 27th—21st.

A. Mangen didn't give it to Kofkin until March 21st . . . The four largest and the eight largest?

Q. Yes.

A. That could be. He could have held it. I don't know. [reads] "Kofkin transmitted to Dr. Wilson a work sheet" . . . Mangen could have, yes, he could have held it to the end of March.

Q. Why would he hold it, do you have any idea?

A. I have no idea—well, he—things go so slow in the government anyway—I mean it came as no shock—whether he held it or not, I don't know—Actually I shouldn't have been surprised if it took so long from when I turned it in til I called about the mistakes—I just don't know if Mangen held it or not.

Q. Well, you were surprised that Kofkin didn't come back to you until so late.

A. Right. But, then again, I don't what happened to it once I turned it in to Mangen. I don't know what happened to it until Kofkin called and said, "Why are these mistakes here?" But anyway [reads], "they were prepared from the report published Feb. 22"—that's R-405—yes, OK . . . he says here, "He furnished the four largest and the eight largest on March 21st," so I guess that's why Mangen supplied it to Kofkin. "The corrections supplied by Mangen on April 3rd covering memorandum attempts to detail the errors." . . . Gee, it's hard to understand. He doesn't really make it clear where the mistakes were, though. Like I said, the mistakes were—I think the mistakes were in R-405, not in the four largest and eight largest, and he doesn't say that in here, he just says, "The corrections supplied by Mangen on or about April 3rd attempt to detail the errors in the published report"—oh, yes, he does, he does say "the errors," but, "seems to indicate that the errors in the March 21 composite report were corrected by Mangen's office following their disclosure"—yes, well, like I said, I don't think there were any mistakes in that composite report.

Q. It was in the public report?

A. Yes. The mistakes were in the public report, because that's what the whole hassle was. Because that R-405 had been already printed, that's what irked Mangen too. He had the choice of re-doing the whole thing and calling back the copies that were already sent out, or just trying to cover the thing up, cover up the mistakes.

G. What did he choose to do?

A. I don't know.

Q. Did he call the whole thing back?

A. After he realized why the mistakes were there, then I never heard anything after that. I don't know what he did.

Q. OK. Now, we took an interview with Kofkin, and again, all we're trying to do here is to try to clear up whatever discrepancies there may be that could be caused by time and memory failure and everything else. Now, he says that on April 3, that is, Kofkin says, On April 3, about 8:45, he talked to you—I'm sorry, he talked to Mangen, and Mangen said that the information would be corrected and that he'd pick it up—that Kofkin would pick it up. Then at 3:30 on April 3, he had a conversation with you.

A. Who? Kofkin did?

Q. That Kofkin had a conversation with you.

A. That's right.

Q. And that you verbally gave him some corrections.

A. I did?

Q. Now, that's what he says.

A. Well, I can't say that he's wrong; but, like I said, I thought I didn't make any mistakes, but . . . if he has proof that I made a mistake, I can't deny I made a mistake.

Q. Well, no, you know, that's not the question. All we're trying to do is tie down as best we can these conversations.

A. I see.

Q. Whether or not there was a mistake made in the documents frankly is of no concern to us, really. Now, according to our notes, and again, all I'm doing is saying this to see if it rings a bell with you, Kofkin said that it was indicated during the conversation that you had with him that probably they picked up cubic feet for trillion cubic feet—does that ring a bell with you?

Yes. I forget which company—oh, I remember which company it was—it was Monsanto—they were supposed to file an MCF and they filed an MCF which could automatically add a thousand onto their figure which shouldn't have been there.

Q. OK. Now, was this in the Monsanto?

A. Yes. It does ring a bell. I can see now where he got corrections.

Q. Yes. This isn't indicating that *you* made a mistake in your tabulations. You picked up from the Monsanto Company what they had written down, and Perhaps *they* made a mistake, Monsanto. So then, you think that possibly *did* get some corrections on April 3.

A. Yes.

Q. OK. Does that refresh in your recollection on that conversation with Kofkin, does that at all help to bring back into focus at all your conversation with Mangen respecting the destruction of documents?

A. No, it doesn't.

Q. And, you're sure whether the Mangen conversation took place before or after the meeting that you had with Kofkin?

A. Which Mangen conversation are you talking about?

Q. The one where he says he's going to burn his documents, destroy the documents.

A. That *definitely* took place after he talked to Kofkin.

Q. It did.

A. Yes.

Q. After you talked to Kofkin?

A. Yes. After we both talked to Kofkin. That definitely took place after Kofkin talked to us about mistakes. I mean, I'm positive that that didn't occur before that.

Q. But, you can't relate any closer time how far after?

A. No.

Q. Now, do you know when Kofkin called, how many days before April 3rd that he called to ask for corrections?

A. I think he called the very same day.

Q. The same day?

A. Yes, I know it was the same day he came over to see me. Now, whether it was April 3rd or not, I'm not sure, but I *do* know that he called in the morning, and he called back later, and then he finally said, "Well I'm going to come over there," and it all took place in one day—he called and came.

Q. Now . . . that was April 3rd. Then on April 9, you have this National Supply Team document that indicates that work papers were destroyed. So, could Mangen's conversation have been prior to this April 9 date? Mangen's conversation saying, "I'm going to get rid of the papers."

A. Yes, it could have been.

Q. And you thought he was kidding when he first said, "I'm going to get rid of those papers," or words to that effect?

A. Yes.

Q. When did you receive this National Supply Team?

A. This?

Q. Yes.

A. I received it about a week before we moved—maybe two weeks before we moved—it was shortly before we moved. Mr. Albares came down and he said he wanted to talk to me. He said, "Are you interested in writing?" I said, "Yes, I'm interested in writing." "Maybe we can start working you on this little thing here." I guess so Mangen wouldn't have to waste *his* time on it.

Q. On what little thing?

A. Keeping a record of who's doing what, you know, what project's being worked on, who's working on it, what's the status of it. Like I said, it fell through, I never did have to do it, but they gave me that sheet there—there was that sheet, then there was the other team—there were two other teams in our section on this, the National Supply Team, that's Mangen's and that's the team *I'm* on, then there's the Interstate Supply Team and there's Computer Projects Team. Each team leader submits one of those sheets, so this would be an example. Whenever you start doing this, you could use this as an example. I never had to start doing it, but I've kept the sheet.

Q. And you got that, would you say, in April?

A. This? Yeah, it was the week before, it was about a week or two weeks before we moved, so I would put it about the end of April.

Q. Now, once again, and again, I'm not trying to do anything except see if we can pin down more precisely these dates, when Mangen said, "I think I'm going to get rid of those records," that was *before* you got this, is that right?

A. Oh, yes. Definitely.

Q. Much before then, would you say? Yes. At least a week. Probably even longer than that.

Q. Well, do you think he made that statement to you the first? Early in April?

A. Do I think that?

Q. Yes.

A. Yes.

Q. Probably early in April?

A. Yes.

Q. Now, the work papers that are involved in this R-405, once again, would be work papers of Powell and you?

A. But the ones that were tore up were all *hers*. None of mine were tore up for some reason.

Q. Now, would there be any *other* work papers besides yours and Powell's?

A. No.

Q. No other work papers?

A. No. Nobody else worked on that except her and myself.

Q. OK. So on April 9 when they say "work papers destroyed" if they were talking about work papers other than the actual 79 company documents, they'd be talking about either *her* work papers or *your* work papers, right?

A. Right.

Q. OK. And *your* work papers you *retained* up until the time that Mangen took them out of your desk some time in June, right?

A. Right.

Q. So that would appear, then, they'd have to be talking about the Powell work papers?

A. That's right.

Q. OK. And those are the ones that came out of the burn bag, right?

A. That's right.

Q. Well, we've established through other sources that the work papers went into the burn bag at the same time as the 79 company questionnaires.

A. Well, I was under that impression also. It wasn't until you brought it up, the fact that just because it said work papers on there didn't necessarily mean "letters."

Q. Yes.

A. I was always under the impression that he threw everything away at once. That said "work papers" and I got to thinking that doesn't mean "letters."

Q. What are you under the impression that there were no burn bag—it came as such a shock to you before. Earlier, during this interview, you indicated that you had originally thought that the papers in question were destroyed during the third week in April, and I wonder if you can more precisely indicate where you got this impression?

A. OK. Because, I was—I'm trying to figure out when it actually occurred, because Mr. Mangen told me he was *going* to do it and three weeks later—it seemed like a long time—I'd say three weeks—it could have been four weeks, but it seemed like a long time—he said, *I have destroyed them.*" So there was a space of about two, three, or four weeks between the time he said he was *going* to do it and the time he said he had *done* it. And I don't the first of April that he was *going* to do it and he told me just shortly before we moved to the new building that he *had* done it, I figured the third week of April must be when he had done it. That's why I've been saying the third week of April, strictly because I was trying to interpolate between when he said he was going to do it and when he said he *had* done it. I don't know when he actually did it.

Q. OK. Now, if Maxson were to have made any corrections, would those corrections have had to been made from the original documents or could they have gotten—if Mangen had made the corrections, would they have been made on the basis of the original 79 company documents, or on the basis of the work papers?

A. If he would make any corrections?

Q. For the Bureau of Economics?

A. No. He didn't make those corrections from either one.

Q. He did not?

A. No. He made the corrections on—well, I don't know what corrections he made—I don't know what corrections he made on R-405. All I know is he said he knew the source of the mistakes, and then I know the source of one of the mistakes on that four largest and eight largest, but, I don't know anything about actual corrections made by him. I don't remember anything about it, you know—maybe I will if something comes up, but I don't remember anything about it—about him making corrections. All I know is that when he made those corrections on R-405 he never told anyone about it and he never went back and changed the work papers, which would have made it a lot simpler when we were checking over these things. We were on a wild goose chase because there weren't any mistakes to be found, until he remembered that he had done it without telling anybody—checked and made these corrections without telling anybody, but... I don't know what happened.

Q. OK. Now, what's your relationship with Tom Joyce?

A. He's the Chief of the Bureau of Natural Gas, that's as far as it goes.

Q. Well, do you see him frequently, infrequently?

A. No. Infrequently . . . very seldom, in fact. [Laughs.] In fact, I didn't even know who he was until this whole thing started.

Q. Then, you've never talked to Joyce about this situation at all?

A. No.

Q. Either before or after June?

A. That's right.

Q. Now, the Bureau of Natural Gas, as you may know, did some concentration ratios for Senator Hart that Seacus(?) introduced during the course of his testimony and that was supplied to Sen. Hart before that. Did you work on that?

A. Yes, I did.

Q. Who all worked on that project? Did you do it by yourself?

A. No. Is that the four largest, eight largest and twenty largest?

Q. Right.

A. No. Everybody in the office worked on that. Because they just, you know, they got every available person on that, they came down and said "This has to be done in two hours," or three hours, or something like that, and everybody in the office worked on it.

Q. And how long did it take to do it?

A. About two hours.

Q. About two hours?

A. Yes. But then, it had to be done over.

Q. Why?

A. It was done in about two hours, and there were mistakes in it, [laughs] and the next day it had to be done over. But I worked on it, but I wasn't the only one that worked on it.

Q. It was a great (?)

A. [laughs] Yes... I think.

Q. Now, did they take the information from the 79 company questionnaires or from the work papers?

A. They took them off the—Mangen took them off the 79 letters, he put them on charts, and he distributed the charts to the various people, so, yes, they came off the 79 work papers, but, no, each individual didn't have access to the 79 letters.

Q. OK. And it took the crew of you two hours to do this the first day?

A. Right.

Q. How many, approximately, were on that crew? Would you remember?

A. OK, I did it. Bruce Walmsley did it. Wayne Thompson did it. Mangen did one or two alone, I did several alone, so, six or seven people.

Q. And then, they discovered some mistakes, so—

A. They did it over.

Q. You did the whole thing over the next day?

A. Yes.

Q. And how long did that take?

A. About the same amount of time.

Q. About the same amount of time?

A. Less time.

Q. Less time?

A. Yes. Because a lot of them were just checking, you know, checking over the work done before. Some of them, I don't know, some of them had to be done completely over again.

Q. So all in all, action work time you spent is actually less than four hours, is that right?

A. Probably . . . about four.

Q. Now, how long would it take *you* to do that yourself?

A. It would have taken me at least two days.

Q. Two days? You think it may have taken three days?

A. It could well have taken three days. Yes.

Q. OK. You think it could have taken *more* than three days for you to do it by yourself?

A. No. No.

Q. And, when you originally did it back in February, how long did it take you then?

A. Oh, I don't remember.

Q. Do you think it took any *more* than three days?

A. It probably took about three days. But then again, I was only doing the four largest and eight largest, I wasn't doing the twenty largest.

Q. OK. Mr. Nash seems to have a recollection that before you said something about maybe doing it in a half a day.

A. No. That was the checking.

Q. That was the checking. So the original maybe took three days?

A. I don't think it took that long. I think it took a day and a half.

Q. A day and a half, two days?

A. I think.

Q. It wouldn't take you a month?

A. Oh, no.

Q. It wouldn't take you two weeks?

A. No.

Q. It wouldn't take you *one* week?

A. No.

Q. You indicated that when Mangen first told you that he was going to destroy the work papers, that you thought he was kidding. Then after another conversation or another series of conversations, you came to the conclusion that he *wasn't* kidding.

A. Right.

Q. What brought you to that conclusion?

A. Probably the fact—probably because, I remember the first time he said it, he kind of snickered and laughed, you know, and that's why I thought he wasn't serious. But then, the next time, or the next two times he said it, you know, just the fact that he repeated it, and then, you know—

Q. He wasn't snickering?

A. He wasn't kidding, no . . . he didn't give the impression that he was kidding around about it.

Q. He appeared to be angry, upset?

A. No, not upset—just matter-of-fact. The first time I remember him being kind of jovial about it, which made me think he was kidding, but then later, as I remember, he matter-of-factly said something about it being destroyed, well then, I figured he's really going to go through with it.

Q. Were you surprised he was going to destroy these documents?

A. No, I wasn't surprised, because it wasn't a matter of concern to me—I really didn't care—in fact, I probably would have been glad to have the thing destroyed because they kept getting back to me and, you know this whole thing, all these mistakes, kept getting back, and that's a big pain.

Q. Well, I know you haven't been at the Power Commission that *long*, and perhaps this is an unfair question, but in *your* experience there did you have the impression it was routine to destroy documents such as there?

A. No, I didn't have any impression about it.

Q. You didn't think about it one way or the other?

A. That's right.

Q. OK. Are you aware of any policy that the Bureau of Natural Gas has with respect to keeping information away from the Bureau of Economics?

A. Was I aware of that? No. Not any more than the fact that there's always seems to be hostility between the Bureau and different groups.

Q. And the Bureau of Economics isn't unique in this respect?

A. No. But they are a little bit more so, a little bit—there's a little bit more hostility for the Bureau of Economics—the fact that they always *are* checking up, and they always *are*—I mean, not me, but then again, this is what Mangen said—the way he talked, they're always on his back, they're always calling about mistakes, so there's—there *was* hostility.

Q. Did Mangen *express* hostility with regard to Economics?

A. Not—yeah, I guess—I don't remember so much of it being the Economics thing, but just the economists.

Q. Any individual economists?

A. No.

Q. Just economists in general?

A. Yes. In fact the day—according to him, they never come up with anything original, they just point out mistakes in something somebody else has done.

Q. Either during the course—well, have you *ever* heard anything with respect to instructions from either the Chairman or Maxson or Joyce or anyone else in a position of authority with respect to destruction of documents?

A. No. There was never any *reason* for anybody to ever *say* anything about destruction of documents, but I do . . . thinking about this destruction, it didn't surprise me, because, see, in the order that came out, this R-405 would be done, they make this big thing about this data being confidential and that the data could be returned to the company if they wanted it—you know, they could have the data back if they wanted it back. Now,

Q. Where was that?

A. Maybe it wasn't in the order. Maybe I got this from Mangen, I don't know. Maybe he didn't expressly say that, I don't know.

Q. No, to the best of my knowledge, the only thing the order said was they'd be maintained in a confidential manner.

A. See, why it didn't surprise me that this data was going to be destroyed was that only *one* company asked about having the data back, and if it's all that confidential, why didn't *all* of them want it back so nobody could get their hands on it. So, I figured, it can't be all this important data to them if they didn't even want it back. So when Mangen said we're going to have this data destroyed, I really didn't think anything of it because—

Q. Have you ever received any instructions or any general instructions that you're aware of since this incident with respect to destruction of documents?

A. Yes. An order—a rulemaking came down, but I didn't see it, because I didn't get a copy of it—shows you how efficient they are—I do know that everybody who had any connection with this thing was supposed to get a copy of it, but I didn't.

Q. What does it say, do you know?

A. It says basically nothing shall be destroyed without the express written consent of the Chairman.

Q. Do you know when it was sent or who sent it?

A. If it's a rulemaking, it came from the Chairman—it came down a week before last, but like I said, I haven't seen it. I haven't got a copy of it.

Q. Mr. Pavetto, we do thank you very much. We feel you've been extremely candid and cooperative in this interview, and we do appreciate it. Is there anything that you would like to add at this point for the record?

A. No, nothing that I can think of. Of course, I can't think about extraneous things right now, I've been answering specific questions for so long.

Q. Well, if you feel later that there's anything that you would like to add, or if you feel that there's any points that you may have forgotten about or that we may not have questioned about, that you feel is relevant to the issues involved here, why we'd be happy to receive either a written communication or else an oral communication from you. The time is now 4:35, and because this is a preliminary subcommittee investigation at this time and because the identity of all the interviewees is not yet fully determined, and because the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are requested not to discuss the substance of this interview with anyone other than your personal attorney. OK?

A. All right.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY STAFF INTERVIEW WITH JOYCE POWELL, FPC

Let the record reflect that this interview is being recorded. Present are Joyce Powell of the Federal Power Commission staff, Patricia Barrio of the Senate Antitrust Subcommittee staff, and Charles E. Bangert of the Senate Antitrust Subcommittee staff. The time is now 1:50. And is it Miss or Mrs. Powell?

A. Miss.

Q. Miss Powell, since the nature of the conduct investigated may amount to violations of one or more Federal laws, we believe it only proper that you be advised of your rights. You have the right to remain silent, refuse to answer any questions you feel may tend to incriminate you, anything you do say can be used against you in any other proceeding, you have the right to have counsel of your choice with you during questioning and the right to talk to him for advice before we ask you any questions and before you answer any questions. If you desire to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You will also have the right to stop answering at any time until you talk to a lawyer. And I'm going to give you a copy of this form that I read from and ask you to look at it and take a look at it and reflect on it. We ask you to read and understand your rights. And voluntarily waive them and agree to be interviewed.

The rights that we are asking you to waive there are the rights to have an attorney present. If you so desire.

A. Well, just to be on the safe side, maybe I should just scratch that part off.

Q. All right. But you do not desire to have an attorney present?

A. No.

Q. For this interview.

A. Right.

Q. Miss Powell, we're going to ask you a series of questions. We want you to understand that there is no basis for accusations or innuendo or pre-judgment intended. It is only a means of eliciting information from all witnesses in obtaining necessary background information to evaluate all of the circumstances involved. And I believe Mrs. Barrio indicated to you when she talked to you that this is an investigation that is being conducted on behalf of the Senate Antitrust and Monopoly Subcommittee relative to the attempted destruction of certain documents connected with R-405 proceedings by the Federal Power Commission.

A. Yes.

Q. For the record, would you please state your full name and address.

A. Joyce Marie Powell. My address is 617 Emerson St., N.W., Wash. D.C.

Q. OK. Before we continue, I wonder if you would mind signing that form right there. The form advising you of your rights.

[Sounds of signing]

And what is the present position that you hold with the Federal Power Commission?

A. Statistical assistant.

Q. And how long have you held that position?

A. Ever since 1966.

Q. And who is your superior?

A. Mr. Edward A. Albares.

Q. And could you briefly explain the chain of command. Do you supervise employees in your position?

A. No, I work directly for the professionals. In my section.

Q. And Albares is your immediate superior?

A. Yes.

Q. Then how does the chain go from Albares?

A. Then we have Assistant Section Head, which is Lawrence Mangen. And then they come on down to the employees.

Q. I see.

A. We have team leaders, too.

Q. I see. And Thomas Joyce as chief would be the Bureau Chief would be in a position superior to that of Mr. Albares?

A. Right, Right.

Q. Now. You indicate that Mangen is an assistant——

A. Assistant Section Head.

Q. Do you consider he is your superior? In terms of chain of command, that is.

A. Well, the way they had it set up, he is also a team leader. I know it's crazy.

But anyway I am under his team. If you look at it that way.

Q. How many people are on that team?

A. Ten, Ten includes him.

Q. What is that team responsible for?

A. Let me see. The problem is right now since we have the reorganization we're really not supposed to have any teams. But we never changed anything. It's still the same way, you know, it was before. But really we aren't supposed to have any teams at all.

Q. Maybe if you could tell me a little bit about the type of thing that the team does, that will help us.

A. Let me see. Well, we work on hearings, like testimonies, exhibits. Anything that comes in, you know, like if Tom Joyce assigns something to Mr. Albares. If he gives it to Larry, it comes to us. Nothing in particular, you know, just anything that comes in.

Q. And are there in the Bureau of Natural Gas are there a number of these types of teams?

A. I think there used to be. But like I said in this analysis we had they're trying to do away with teams. They're just trying to have a head, and the head, like, takes care of the whole section. And then they might have an assistant head, but that's it. That's as far as it's supposed to go now.

Q. What did you do prior to coming with the Federal Power Commission?

A. Nothing. I was at school.

Q. And what is your educational background?

A. Just high school graduate. For about eight months I went to —— Business College. Eight months after school, until I got a job.

Q. You're classified as a statistical clerk, is that right?

A. Assistant.

Q. Statistical Assistant?

A. Yes.

Q. Now, what type of work do you normally do during the course of a day.

A. I summarize; I post; I calculate; I find the percentages, the ratios—well, that's a general idea of what I do.

Q. Is your position limited strictly to doing this type of statistical work—is that all that you do for the Federal Power Commission.

A. Yes, that's all.

Q. In addition to the compensation which you receive from the Federal Power Commission, do you have other sources of income such as stocks, bond holdings, etc.?

A. I just have mutual funds.

Q. Do you have any vested or unvested pension rights, insurance plans, retirement benefits or other financial arrangements arising out of previous employment or from sources other than your personal finance?

A. I don't. (This is as clear as I can determine what she said.)

Q. Do you have any relatives working in or for or representing in any capacity, the oil and gas industry?

A. No.

Q. Now, I take it, when you got out of school and after you spent your eight months in the—is it a business school—

A. It's a business school.

Q. Then you just applied to the Federal Power Commission for employment.

A. Yes. Yes.

Q. Are you—did you take a civil service test? And what is your civil service rating?

A. Yes. It was a GS-3 for a typist when I first came in.

Q. And what is it now?

A. GS-6, statistical assistant.

Q. Have you ever received any honorariums, gratuities, transportation expenses, gifts, or any other thing of value more than \$10 in value from oil or gas companies officials or representatives? Have you had any discussion of future employment with any member of the oil and gas industry?

A. No, I haven't.

Q. Have you discussed your appearance here with anyone prior to entering the room?

A. Just that I was coming, that's all.

Q. Who did you discuss it with?

A. The employees in my section.

Q. Specifically, did you discuss it with Mr. Mangen?

A. No more than I just said I was coming, calling, that's about it, that's all I said. It was almost 4 o'clock anyway by the time I told him. I just said I was coming. That's all.

Q. With Mr. Albares?

A. No, he's out of town.

Q. With Mr. Maxson, the executive director?

A. [Couldn't pick up reply]

Q. And, it's your testimony that you merely mentioned the fact that you were coming, you didn't have any detailed discussion with anyone, and no one indicated in any way how you should respond to questions.

A. No. [Several times during the question]

Q. Are you aware of any communication with respect to reporting back to anyone the substance of the interview?

A. No.

Q. Now, then. Mrs. Bario has handed me a note indicating that I should ask you to speak up in your responses, so that we're sure we'll get it on the tape.

A. OK. Alright.

Q. I believe that when Mrs. Bario called you she asked you to bring with you today all writings of any nature whatsoever, including diaries, logs, or records of telephone conversations referring, relating to use and disposition of the documents involved in the alleged attempt of destruction.

A. Yes, she did.

Q. Do you have anything to give us?

A. No, everything was taken out.

Q. And when was it taken?

A. Let me see—the first time, Mr. Mangen came around I guess it was in April. He wanted everything that we had. So I gave him everything I had, the worksheets.

Q. What did you have?

A. I had the worksheets.

Q. These are the worksheets that you prepared?

A. I prepared. Yes.

Q. Any other memoranda, or

A. Just an order that we got from the FPC.

Q. That's the order in R-405?

A. Yes. And the letters, I'm sorry. I think that I had the letters, too, for that time.

Q. That's the letters from—

A. The companies, yes.

Q. And that included the questionnaire, is that correct?

A. Yes, yes.

Q. You had possession of those?

A. Yes.

Q. And, that was in April?

A. In April, yes.

Q. Can you tell us when in April that was?

A. I can't tell you the specific time. It must have been like either the week of the 24th or the week before, or the week after. I'll just say those three weeks. I can't tell you exactly the date.

Q. These dates are rather important, and so if there is any way that you can relate to what you were doing at that time so that we could attempt to pin down a little more specifically the dates, we would appreciate it very much.

Let me hand you Exhibit marked Pavetto Exhibit 1 that was supplied to us during the course of these interviews. And it's a National Supply Team report. I'd like you to take a look at that to see if you're familiar with this type of report.

A. No, I'm not. I haven't seen this.

Q. So that in the course of your employment you've never prepared, nor have otherwise seen this type of report. Is that correct?

A. No, I have not. Correct.

Q. OK. I'm sorry to have interrupted you. I think you were in the process of seeing if you could pin down the dates.

A. Do you have a calendar?

Q. Yes. April is up at the top. It's not a very good calendar.

A. The best I can say is either the week of the 16th or the week of the 23rd. One of those weeks. That's about the best I can do.

Q. In terms of the move in the Federal Power Commission office—

A. Yes, that's what I was going by—because we moved on the 7th. So it's either one of those weeks.

Q. OK. Now, when Mr. Mangen picked up that material from you, for what purpose did he pick it up? Did he advise you?

A. He said he was going to take it down to the security officer.

Q. For what purpose?

A. To have it destroyed.

Q. Did he indicate why he was going to take it down to the security officer and have it destroyed?

A. Because of its confi—well, when I first started doing the work it was like, it was last October, I think it was when I first started (?) it—and when he got the order he told me that I was to work on this report. Then he told me that everything was confidential—like any time I had the letters or what have you when I left the office to always lock it in my desk. And he told me then that, like, nobody could see anything I had, or talk, anything about it. That everything was confidential. So, that was it.

Q. He told you this back in October?

A. In October, when I first got it.

Q. And then he told you sometime in April that he wanted that material back to destroy it.

A. Yes.

Q. Now, I'd like for you to reflect as best you can precisely on the conversation or conversations that he may have had with you regarding destroying that material.

A. Well, all he said was bring(?) out the letters from the companies. He indicated that the companies either said send it back or destroy it.

Q. This was back in October he told you that?

A. Yes. In October. So, like, I knew eventually everything was going to be taken up. But, like, I didn't really know we had any security officer. I never heard of him. Until that time. But I did know it was going to be taken up and destroyed some way.

Q. You knew that back in October.

A. In October, right.

Q. He told you back in October.

A. He told me, when he first gave me the assignment.

Q. He told you it would ultimately be destroyed or returned to the company.
 A. Yes. Yes.

Q. OK. Now in April when he said he was going to destroy it and asked you for it, did he say anything with respect to the fact that Senator Hart wanted this material?

A. Oh, no. No.

Q. Did he say anything with respect to the fact that the Bureau of Economics wanted this material, the Federal Powers Commissions Office of Economics?

A. No more than we got a call from the Economics when they were mentioning some of the figures weren't as accurate as they had, and to check it out. Which we did. And, after that was done, then he just took it up.

Q. Well, now, then we want to cover that in a little more breadth later on during this interview, but specifically, when Mangen got the material from you for purposes of destruction, did he at that time say anything to you with respect to the Bureau of Economics?

A. No. Nothing at all.

Q. He didn't indicate to you that the Bureau had been bugging you with respect to mistakes or anything along that line?

A. No.

Q. You didn't express any kind of displeasure?

A. Refresh my memory. It seems like all I can remember him saying was that we have had the report out to the public for at least a couple of months and now we were going to destroy it. And the people from Economics are calling about it. That's about all I can—

Q. Well, now, what about the people from Economics calling about it?

A. Just calling about the figures. That's all.

Q. Well what did he say with regard to that?

A. They were saying that the figures weren't accurate.

Q. What was Mr. Mangen saying with respect to the fact that the Bureau of Economics was calling?

A. That's all he said to me about it.

Q. Why would he mention that in context with the destruction of documents?

A. Nothing. He just came out and said like now we're going to destroy it. This is what the company said.

Q. Well, now, did he say the Bureau of Economics or the Office of Economics wants this information and we're going to destroy it?

A. We gave it to them. We gave the figures and everything to Economics.

Q. What I want you to do is to tell me as best you can the conversation that took place.

A. Well I didn't hear them talk—Oh, you mean, to me when I was interviewed. [when I was at the meeting?]

Q. Yes.

A. It's been so long ago. All I can remember—Economics called Mr. Pavetto I'm sorry ——, and he was telling them about the work he was doing an article by ——. Well, he at the time didn't know what —— was, even tho he had been working on it, you know. So he referred the call to Mr. Mangen. Mr. Mangen came out and told Carl that he was to take the call, take the telephone conversation, because he was the one that worked on it. So, I think the man from Economics called him back, called Carl Pavetto back, and I think told him what the problem was. And Mr. Mangen came out and told him to redo the figures. So I just walked past and I was asking Carl what was he doing, you know. He told me. So I just joined in to help him. Since I had worked with him, anyway. And, all that I can remember is Mr. Mangen saying we can't do anymore changing, or something like this, he says. We can't do any more changing because, like, we were going to destroy it. That's all I can remember him saying.

Q. We can't do any more changing?

A. Yes. This is like after, if we got any more telephone calls, we couldn't do any more changing because we wouldn't have any more worksheets or any letters or anything. That's all I can remember him saying. So that's when he came—he came around later and said he was going to take up everything we had and take it down to the security officer. That's all I can remember him saying.

Q. Well, when did he say we can't do any more changing?

A. That was the same day that he took it off. It was like—it must have been the morning. He took it up in the afternoon sometime. I guess about 3 o'clock, or 2:30, or something like that.

Q. So in the morning—

A. This was when we got the call from Economics.

Q. You got a call from Economics?

A. Yes. So we worked on changing those figures that morning.

Q. You worked on the figures?

A. Yes. Until we got done. And then I guess about 2:30 or 3 o'clock, or something like that, that's when he came in and collected everything we had.

Q. So it was on the same day that you finished doing the corrections?

A. Right, the same day.

Q. OK. Now, can you pin it all down that date—

A. Can't.

Q. [Continuing] Any more precisely?

A. I can't. All I know—I know it was around about 2:30 or 3 because like I think most of the men in the section had gone on a coffee break. So that's the only reason I know it was between 2:30 and 3. But as far as the day, I can't recall.

Q. OK, now let me ask you this. How many times did you do corrections? For the Bureau of Economics?

A. Oh, just one time.

Q. Just one time?

A. That's all I know of.

Q. That's the only time you personally were involved in any corrections?

A. The time I helped Carl, yes. That's the only time.

Q. Ok, now. Let me just run over this once again. Because we do want to pin these dates down just as precisely as possible. You indicated that it was only on one occasion you did anything in terms of making corrections for the Bureau of Economics or the Office of Economics.

A. Yes.

Q. And at that time you assisted Mr. Pavetto in making these changes.

A. Yes.

Q. And, you did this in the morning.

A. In the morning, yes.

Q. And that same morning, Mr. Mangen indicated that something to the effect that you would not be able to make other changes because the documents were going to be destroyed. Is that correct?

A. I think that was the afternoon when that happened—when he said that—it was the afternoon.

Q. Well, I thought originally you told me that he had said that in the morning and then in the afternoon he came and picked up the documents.

A. No, I said we worked on it in the morning. He came back in the afternoon to pick everything up since we had finished the letters and the worksheets, and everything. And that's when he said that.

Q. So he said that at the same time that he picked up the material.

A. Right, Right.

Q. He said Won't be able to make any more changes because the materials are going to be destroyed, or words to that effect.

A. Year. Right. Right.

Q. Now. Did you have any conversation with Mangen in the morning when you were helping Pavetto. Did Mr. Pavetto come up to you or to—I'm sorry, did Mr. Mangen come up to you or Mr. Pavetto during the time you were making these corrections?

A. Just to see how we were doing. That's all.

Q. What did he say at that point?

A. How you all doing. That's about all he said. So we said everything is pretty slow because we were checking the worksheet with the letters again to double check, and there's quite a few letters. So we just said pretty slow. He walked away.

Q. And then that afternoon was when he came and picked up the documents and said that they are going to be destroyed and you wouldn't be able to do any more corrections.

A. Yes. Right. Right.

Q. Now. You first saw the documents on R-405 in October of 1972.

Is that correct?

A. Yes. Correct

Q. And what were your instructions at that time? What were you supposed to do with those documents?

A. I was supposed to—oh, the documents? I'm sorry. We hadn't received the letters so we had another part to the report that could be done from the AGA. So, I think Mr. Myot or his Secretary had to send some letters out to these companies. But that wasn't until later that we got replies from the companies. My job at first was to set a chart up and do part of the report. All that I could do without the letters.

Q. What did you do without the letters?

A. Oh, I had to compile some figures up.

Q. Where did you get the figures?

A. From the AGA book that we had. A publication, AGA.

Q. What kind of figures were these involved in the AGA book?

A. Like, we had to show the Appalachian figures, Alaska, United States, South Louisiana.

Q. Rocky Mountain?

A. Rocky Mountain, yes. Let me see, what else. California. Do you want to know some more?

Q. Well is it—it was generally, I take it——

A. Compiling.

Q. Reserved figures for various producing areas. Is that right?

A. Yes. Right.

Q. And so what you first of all did was you took AGA reserve figures that they reported?

A. Right.

Q. And you made your chart showing AGA figures. And this was done in October of 1972.

A. Yes. Right.

Q. Now, when did you get the letters from the companies in R-405?

A. It must have been, I would say, the beginning of November, or the second, or first week of November, something like that.

Q. And what did you do with those letters and the questionnaires?

A. I made a worksheet and put down the figures that were on the letters that we had on to the worksheet. I just kept it there until I got all the letters from the companies and I took the docket the R-405 order and like check off the companies as they came in, and as I recorded it on the worksheet.

Q. Did you make up the same type of chart that you made for the AGA figures in October?

A. Let me see. No.

Q. How did it differ?

A. Because when we got the letter we only had like the last two columns to be recorded because we had already done, or I had already done the other part of it, the other rows of charts. So when the letters came in I only had two columns to do. And that was it. So the second worksheet I made up was just the headings that was on the side, the last two columns on the worksheet.

Q. How long did it take you to compile that information?

A. The letters, you mean?

Q. The letters, yes.

A. Let me see. I remember I was going to take leave at Christmas time. I guess I got done with it, it must have been, I guess, the Friday before Christmas I think. Because I think I had the secretary type it up then. But the only problem I think are four companies, I think four, five companies hadn't filed even though we had sent a second letter we still hadn't gotten a reply from those four companies. So the figures I had were the figures of all the other companies I had except those four or five, or however many it was.

Q. You started this task in approximately November, right?

A. The letters?

Q. Yes.

A. Yes.

Q. And it took you from—was it the first part of November?

A. Yes, the first part of November.

Q. It took you from the first part of November to approximately before Christmas to complete that task?

A. Yes. Right. Right.

Q. Were you working on it alone?

A. I was alone. And after I got done with it, then Mr. Mangen gave it to Carl. And I guess that must have been—I don't know whether he worked on it while I was on vacation, Christmas leave—or not. I don't know whether he worked on it between Christmas and New Years or not. But I knew when I got back in January he was working on it. Which I think he was just correcting, not correcting, just checking my figures, to be sure they were alright before going to the public. But from October to December, I worked on it by myself.

Q. And you finished with it Friday before Christmas, approximately?

A. Yes.

Q. Now, what did you do with the letters when you finished with them?

A. I gave it to Mr. Mangen. Because I felt like while I was gone maybe he needed _____ or something, I just turned it back to him.

Q. This was before Christmas you gave them to Mangen?

A. Yes.

Q. Now, when Mangen first gave you those letters, would you tell us again what he said with respect to confidentiality.

A. He said we are going to receive letters from the, I think 79 companies. He says it's very confidential. He says keep it locked up. We cannot let any figures or anything be out. He says if ever you get up from your desk, before you lock it, into your desk. And he says because the companies indicated either the letters were to be returned back to them or destroyed. And that's all. That's all he said. And that was in October, because I remember that.

Q. What kind of security system did you have for those letters?

A. I kept them locked up in my desk. I have a key. And I keep it locked up every time I leave. I always lock it up in my desk.

Q. When you leave your desk to go to lunch, or—

A. I lock it up.

Q. Any time you left your—

A. Every time I left.

Q. [continuing] desk you locked it up?

A. Yes.

Q. Now how about the workpapers?

A. I locked everything up. Because he said everything.

Q. Everything. During that period from the first of November to around Christmas, you were the only one that had any contact with these papers. Is that correct?

A. Right. Right.

Q. Pavetto had no contact at that time?

A. No, he didn't. No.

Q. Now. When did you next see those papers?

A. I think the next time I saw was when I helped Carl that day that it was destroyed.

Q. And that would have been in April?

A. In April.

Q. Now, were you aware that approximately February 1973 the Office of Economics requested some information from those documents?

A. All I know about it was that one time. That's all I know. Never heard anything else about it.

Q. What one time?

A. One time. On the day it was destroyed. The time I helped—

Q. In April?

A. In April. Right. That's the only time I know of—

Q. So that in January you didn't have anything to do with those documents?

A. No.

Q. And in February you didn't have anything to do with the documents?

A. No. No I didn't. Carl had it then because he was checking, you know, double checking my figures.

Q. And in March you didn't have the documents?

A. No.

Q. Did you know that Pavetto was doing any work in terms of compiling certain figures for the Office of Economics?

A. Only that day that he got the telephone call. It's the only time I know of.

Q. But not before that?

A. No. He nor Carl had said anything to me at all about it since that time. The only reason I knew Carl was working on it was because I saw it on the desk. I mean like checking my figures because I saw it on the desk. But that's all.

Q. This was after Christmas?

A. After Christmas.

Q. You saw him checking your figures?

A. That's right. It was on his desk.

Q. You didn't know whether he was checking your figures at that time just checking the accuracy of your figures or whether he was taking some material off of there for the Office of Economics?

A. Oh, no. Well, when he told me—wait a minute, think about it—Evidently he didn't start working on it till I got back from vacation because I can remember him coming to me saying he would like to use my worksheets that I had. So I asked him what was he going to do with it, so he says I'm just going to check, Mangen wants me to check your figures. I do remember that. Because he came and got my worksheets.

Q. Do you remember when this was?

A. It had to've been, I guess it was the day after New Year's when I came back from the—

Q. So this was in January?

A. January. And that's how I knew because he was correcting, well not correcting, checking my figures.

Q. What were you doing in January, February and March of 73?

A. With R-405?

Q. No. With the Federal Power Commission.

A. I can't remember.

Q. Various other tasks. Is that right?

A. Yes. Right. Right.

Q. But you had nothing to do with R-405?

A. No more after that time, not until April when I helped Carl.

Q. Why don't we take a break for about 5 minutes.

[Break]

Q. Now besides R-405 did you do any statistical analysis with respect to AR69-1?

A. Do you know who worked on it?

Q. No. It was the Southern Louisiana litigated case, if that's any help.

A. It seems like something that Mr. Zabel did, I think. I may have—let me see—I think he did the work, I think, wait a minute, maybe I—I don't really know. I'm sure I helped him somewhat. Can't tell you exactly what.

Q. How about that National Gas Survey. Did you do any work on that?

A. Not during that time. Did I do anything after that—after it was all over—let me see. It seems like something he had me do—Mr. Mangen had me doing—but I can't recall what it is. It was like near the end. It wasn't that much, really.

Q. Let me ask you this. When you've done work like this previously, what was the policy with respect to the disposition of the documents after you were done?

A. Well, if I had a worksheet, or something like that I would either give it to Larry, or just keep it.

Q. Was the material destroyed?

A. No. It wasn't confidential.

Q. Well are you—

A. Usually I give it to Larry.

Q. Larry Mangen?

A. Uh huh. Usnally that's what I do.

Q. Are you aware of any material being destroyed as confidential other than this material?

A. No.

Q. So, then as far as you were concerned, this was an unusual practice from that which were aware of as being followed in the past. Is that correct?

A. Most of the work we do is not that confidential. So, really, we never had anything this confidential, I don't think. Not that I'm aware of.

Q. This is the first time that you've ever been instructed with respect to the fact that it was confidential material, and that you should lock it away?

A. Yes. Yes. First time.

Q. Did you ever do any work in connection with a project that a Mr. Tourtolotte was doing for the Power Commission?

A. Never heard of him.

Q. Have you ever gotten reserve figures such as these from companies in other proceedings?

A. The only reserve figures I usually get, they're from publications.

Q. From publications?

A. Yes.

Q. Not from the companies?

A. Not from the companies, usually—

Q. So as far as you were concerned this is the first time you have ever done any work on actual company figures that were obtained from the companies?

A. Yes. That I can recall.

Q. I take it that in your office you have the normal employee comaraderie, if you will, I assume talk back and forth with Mr. Pavetto, and—

A. We never sat that close to each other. Like the way our office was set up in the General Accounting Office, it was like one big office, partitions around us. Like I was on this side, he was way on the other side in the back. He was like in front of Mr. Mangen's office. So I really couldn't talk to him from my desk, anyway.

Q. But you at sometime became aware that he had the letters and your worksheets?

A. He asked him for my worksheets.

Q. He asked you for your worksheets?

A. Because I always kept them.

Q. And where were those worksheets at the time he asked you?

A. In my desk.

Q. Locked in your desk?

A. Well, I was sitting at the desk so it wasn't locked.

Q. Did you say anything to Pavetto with respect to the confidentiality of that material when you turned it over to him?

A. I don't think I did. Because Mr. Mangen had already talked to him about it and told him to come get the worksheets. So I just assumed—

Q. Did he say anything to you about the confidentiality of the worksheets?

A. Did who?

Q. Did Pavetto say anything to you about the confidentiality of the material?

A. Not that I can recall.

Q. Do you know whether or not Pavetto took the same precautions with that material that you took when he had it?

A. I really don't know.

Q. Don't know one way or the other?

A. No, I don't.

Q. Now, the worksheets that we have just shown you. Those are your worksheets. Is that correct?

A. Right. Right.

Q. Now, as I recall you indicated that you did some work in October with respect to the AGA book figures.

A. Right.

Q. Would that be on those worksheets?

A. No.

Q. That is strictly company figures?

A. Company. Right.

Q. Do you see in that material the worksheets that you did with respect to the AGA figures?

A. No I don't.

Q. What relationship did the AGA figures have with respect to these figures. In other words, were you trying to compare these figures with the AGA?

A. Yes.

Q. Did you compare them, ultimately?

A. Well, I showed—I put down what the AGA showed and the companies showed.

Q. Now in your job, were you supposed to make any conclusions with respect to the AGA figures vis-a-vis the company figures?

A. All I did was compiled it and give it to Mr. Mangen.

Q. Now, am I correct in understanding that the AGA figures that you copied down were the AGA figures for uncommitted reserves?

A. There was some—whatever this is—this is what this is, yes.

Q. Those are the company figures for uncommitted reserves?

A. Yes. Right. OK. Yes.

Q. So it would be the same type of figures, figures representing the same type of reserves as the company figures.

A. Right. Right.

Q. OK. Now, Once again, I want to get back to this period of time when Mangen indicated that he was going to destroy the documents. Now, Pavetto had the documents at this time and you and he were doing work on them, is that right?

A. Yes, at his desk.

Q. At his desk?

A. Right.

Q. OK. And he had sometime prior to that gotten your worksheets from you?

A. Yes. In fact it was the same morning.

Q. The same morning he had gotten the worksheets. So, there was 3 things at least that happened on that day. 1—Carl Pavetto got the worksheets, 2—You and Carl Pavetto did some corrections, and 3—Mangen then took the documents. Is that right?

A. Yes.

Q. OK. Now, when you and Pavetto finished doing the corrections, then did you take the documents back to your desk?

A. No, I left it with Carl Pavetto.

Q. You left it with Pavetto?

A. Yes.

Q. And, where were you then when Mangen picked the documents up?

A. Wait a minute. Let me see.

Q. Were you with Pavetto?

A. Let me get my thoughts together. No, I was at my desk. When Larry came to my desk, in the afternoon, like after lunch.

Q. He came to your desk after lunch?

A. After lunch.

Q. And he asked you for the documents? Is that it?

A. Right. Right.

Q. And what did you tell to him?

A. Oh, I had it then. Because Carl brought it back, I guess, after he got done with it.

Q. Oh, so he did bring the documents back then that afternoon?

A. After he checked with Larry to be sure everything was OK, you know.

Q. Then he brought the documents back to you.

A. It gave it back to me, then.

Q. And these were your worksheets plus the 79 questionnaires, company questionnaires?

A. Yes.

Q. Now, after that period when Mangen came to your desk, asked for the documents, said he was going to destroy them, did you see or hear about those documents again?

A. Not until, I think it must have been May, when Mr. Mangen came to me and told me that Mr. Tom Joyce wanted all the worksheets and the letters.

Q. And what did you tell him?

A. I didn't tell him anything. He just told me about it. He had it, so.

Q. Well, he just mentioned it to you in a conversation?

A. Yes.

Q. Is that it?

A. Yes.

Q. Did he indicate why Mr. Joyce wanted the material?

A. I think he mentioned something about Senator Hart wanting the information. That's all I know of it.

Q. Well, could you relate in as much detail as you can that conversation? Do you remember where it was? Was it at your desk, or was it at lunch, or—

A. It wasn't at lunch, I know. Let me think. I think he came to my desk. Because I think by that time he had gone down, he had called the security officer by that time, and he told me that what we had to get together and put together again, you know. And that's when he mentioned Senator Hart wanting the worksheets and the report that we have.

Q. Now, then, was there a time when you saw the documents again?

A. While I was putting it together.

Q. Alright. Now would you relate how that happened?

A. How what happened?

Q. How did you get the documents, who instructed you to put them together?

A. Oh. Mr. Mangen came to me at my desk, and he says Now we have to use some scotch tape and tape the worksheets and letters back together again. Well, first it was just the worksheets. And we, let me see, I went to Mr. Mangen's office and, if I'm not mistaken, it seems he and I put these back together.

Q. The work sheets?

A. The work sheets. This one right here. This side. I think in the meantime Mr. Tom Joyce walked in, and he asked whether all these figures right here would give you the total we have in the report. And Mr. Mangen said no, because four companies filed late and he never came to us about it. So he just corrected the mistakes, well not the mistakes, but the reports himself.

Q. Mangen did.

A. Mangen did in his office. So we never saw the figures, you know. So he says Those four companies won't be in these worksheets. So that's when Mr. Tom Joyce says, Well we'll have to take all the letters and paste them back together again.

Q. Where were the letters at that time?

A. Before we pasted them back together again? I think Mr. Tom Joyce went down and picked up the letters. I know Larry picked this up. But, I think Mr. Tom Joyce picked up the letters. I think he brought it in a folder.

Q. Where from, do you know?

A. From the security officer.

Q. OK. So, it's your understanding that there were two trips made to the security officer. One by Mangen to pick up the worksheets, and is it your understanding that he did not pick up the letters at that time?

A. I don't think so. I think all Tom Joyce wanted, what he thought I guess, was the figures from the worksheets. But then he found out later that he wanted, you know, like—well, since the total on the worksheets weren't going to jibe with the report, then we had to do the whole letters.

Q. OK. So then Joyce said, Well, I'm going to go get the letters. Is that—

A. No. He—while we were pasting this together, Tom Joyce went down and picked it up—the letters, himself. That's when he came back to the office with it.

Q. With the letters?

A. With the letters, right.

Q. Now, do you know whether or not Joyce picked up the letters on the same day or the day after that Mangen picked up the worksheets?

A. The same day.

Q. The same day?

A. Uh-hu. Because, the morning before Lunch, Mr. Mangen and I was taping these back together. And I think it was, and he hadn't quite finished and we finished. I think it was, like, after lunch. And during that time is when Mr. Tom Joyce came around, and he had the letters.

Q. Now, do you remember when this was, or the approximate date that this was?

A. Not the approximate date. All I can—it was after we moved in the new building.

Q. And you moved in the new building when?

A. On May 7. So it must have been, maybe, I think it was the week after. It seems like, it seems like it must have been on a Friday when all this right here happened. It seems like a Friday.

Q. On a Friday.

A. I think it was a Friday.

Q. Why do you think it was a Friday?

A. Because, well, taping these letters right here, after doing a certain amount—

Q. You want a weekend off.

A. You want a weekend to recuperate.

Q. You don't think it was on a Monday?

A. I think it was on a Friday, because I think—I'm almost positive it was on a Friday, because Mr. Mangen leaves at 4 o'clock, and, well, he had some of the ones in his section, you know, besides me, putting these letters back together

again. And everybody had left at 4 o'clock—well, it was lucky—but, anyway, the ones that stayed till 5 o'clock, we stayed and tried the best we could to put the letter back together again. So, I'm almost positive it was a Friday.

Q. Let's go back once again, and I'm not trying to, I really am not trying to press you or abuse you on this point with respect to the date when Mangen indicated that he was going to destroy the documents. But, again, trying to get your recollection as best you can. Now, Easter came in that month of April. And, I guess Easter would have been on the 22nd of April. Now, and you moved on the 7th of May. Now, can you remember at all whether Mangen said he was going to destroy the documents before or after Easter? Does fixing that date help at all?

A. Not at all. Easter doesn't mean that much. So, not at all. I can't remember by that. If I'd used some leave, maybe I could, but I didn't so, I can't.

Q. OK. Just a couple more areas. When Mangen indicated to you that you wouldn't have to make any more corrections because he was going to destroy the documents, how did you feel about that?

A. Well, happy.

Q. Why?

A. Because I had been working on it, you know, like almost every day. Like every time the companies sent the letters in, you know, like I'd have to post them on the worksheets. And it was like, like at one time, let me see, well, anyway when you have a long project you look for an end sometime.

Q. You're glad to get rid of it.

A. Yes.

Q. How about Pavetto. Do you know how he felt about it? Was he happy?

A. I'm sure he felt the same way, you know.

Q. He was tired of making corrections, I guess.

A. Well—

Q. I'm not trying to characterize.

A. I guess it was just kind of the project, you know. Not that he was making corrections. He wants an end.

Q. How about Mangen?

A. Well, the most he did, really, during that time was like after we had done it. He probably triple checked the figures. But that's about the most he did. That I can remember.

Q. Did you feel at all that it was a reflection on you or on Pavetto or on Mangen that the Bureau of Economics called to your attention mistakes in the material prepared for them?

A. Not really, because, well after, like, whatever I did, it was double checked by Carl before it went out. Which makes you feel a little better, right? But, I didn't know that Larry had made some changes afterwards, you know, I didn't know that. Because when I got done with it, with my part, my worksheets, I had the secretary type it up. I gave it to Larry. So, not really, because I did what Larry said.

Q. Well, did you ever talk about these corrections with either Pavetto or Mangen, or about the fact that Mangen forgot to list some companies?

A. I think we mentioned it the day that the people from Economics called. The day it was destroyed. We talked about it that day because I didn't know anything about it before that time. But we, he and I, Carl and I, we talked about it then. So we felt like since we had worked on it, we felt like we should have it on work sheets in case maybe something like this should come about because it makes it bad if you don't know which companies they were, you know, well you could tell, you know, what I had here. But still there was no way of knowing unless you go through all these companies to find out, you know, I felt like on a worksheet everything should be on a worksheet before it goes out, you know, in case problems come about like mistakes, or what have you, you know. But I guess he, I think Mr. Mangen felt like it was at the last minute that we got the replies from the companies and we had it already typed up. So I think all he did was like, or whatever changes he made, you know, and like — had the secretary — put the figures that he arrived at. But, like I said, I felt like it should have been on the worksheets first. But—well—whatever you say. So we felt like if anything was wrong, it wasn't our fault, you know.

Q. Now the day that Pavetto gave the corrections to the Office of Economics, do you know whether or not someone from the Office of Economics came over to your shop in order to get those corrections?

A. After Mr. Pavetto got done, I left and went back to my desk. So like I imagine he just gave it to Larry. That's what I think he did.

Q. You don't know—

A. I don't really know what he did with it afterwards.

Q. You didn't see anyone from the Office of Economics come down?

A. Come down. No.

Q. Did Pavetto at all that day indicate that those corrections had been given to the Office of Economics?

A. I think all he said was he gave it to Larry. Because normally if Larry asks us to do something, you normally give it back to him. And if it's Mr. Pavetto, he didn't know the man anyway. He wouldn't know the man if he came down and stood in front of him. But I think he felt like Mr. Mangen would know who he was. So, if I'm not mistaken, he just gave it to Larry.

Q. And presumably as far as you know, Mangen transmitted it to the Office of Economics.

A. Yes.

Q. OK. Now, again, going back to the time period that—the day that Mr. Mangen indicated to you that he was going to destroy the material. Now, it's your impression that he had other portions of this material with him when he stopped at your desk?

A. Yes, everything that he may have worked with himself, and I think he stopped at Carl's desk because it would make more sense to go to Carl's desk before coming to mine, which Carl sits right in front of him. So, I'm almost positive I heard him walk past, you know, like, in order to get from my desk out the door you have to go all the way back down because it's 3 desks, there's two desks behind me, so he has to come all the way down and around to go all the way back up out the door. And I'm almost positive I heard him go out the door, you know, like walk past. Because normally you can almost hear somebody walking up and down. And I'm almost positive that's what happened.

Q. Now, to the best of your memory and recollection, Mr. Mangen apparently got stuff from his office that he had had in connection with R-405—

A. I think he had a folder or something, whatever he had he just picked up what I had—

Q. OK. He had something and then maybe he stopped and got something from Pavetto also. Is that right?

A. Right. So whatever he had, I don't know whether it came from him or came from Carl. But he had something.

Q. Right. OK. And then he stopped at your desk—

A. He stopped at my desk to pick up everything I had.

Q. OK. Do you know whether it was R-405 material that he had when he came to your desk?

A. I'm almost positive, because, like, when he came to my desk, he says Well, you know, what do you have. He says, I'm going to take everything down, you know, together, you know, I'm going to take everything down right now. I called the security officer and I talked to him, and I'm going to take everything, you know, everything down. So, right away you assume that he has everything he's going to take down right then. Because like I said, I'm almost positive he went out the door after he left my desk. So, like, he would had to have everything, you know, because to take down.

Q. Did he have a folder when he came to your desk of some kind, is that it? Do you remember?

A. It's—I can't swear to it.

Q. Do you remember whether he may have put your stuff into a folder. Do you remember?

A. Well, I had my worksheets in a folder like this anyway. I keep it in a folder like this to keep it together. So I think I gave him the whole folder, because like I had everything I work with was inside the folder together.

Q. OK. And it was then your impression that he left from your desk and went to the security officer.

A. Right.

Q. OK. Now, after this contact did he ever come back to you and say, Well I've gotten rid of that material, or words to that effect?

A. I think he said something like, well, it's all gone now, or something like that.

Q. Do you remember when it was that he may have said that?

A. He may have said it after he came back from the security room. Probably, you know.

Q. That same day, you're talking about.

A. It may have been the same day.

Q. The day he picked up the materials from you. It may have been that.

A. Yes. It may have been that day.

Q. But you're not sure, I guess.

A. No. If it wasn't, it was probably the next morning. But, it seems like it was the same day—that afternoon.

Q. Within that time period sometime.

A. Yes.

Q. That he indicated to you that it was gone now.

A. Right. Like he had taken it down, you know, to the security officer.

Q. OK. We appreciate very much your assistance. You've been an extremely patient witness, and cooperative, and we do appreciate it.

A. Thank you.

Q. And, the time is now 3:40, and because this is a preliminary subcommittee investigation, and because the identity of all interviewees is not yet fully determined, and because the subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are requested not to discuss the substance of this interview with anyone other than your personal attorney.

And, once again, we do appreciate very much your frankness and your cooperation this afternoon.

A. Thank you. I did the best I could.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY STAFF INTERVIEW WITH DAVID SCHWARTZ, FPC

Let the record reflect that this interview is being recorded. It is an interview with Dr. David Schwartz, from the Federal Power Commission. Present is Mrs. Bario, Mr. Nash, Mr. Bangert, besides the witness, Dr. Schwartz. The time is now 5:30.

Q. Dr. Schwartz, prior to going on record, I handed you a copy of your rights which were outlined to you and you read it, indicated you have understood, and signed the statement. I will give you a copy for your files, is that correct?

A. I did read the statement, I signed the statement, and I have no reservations with regard to its contents.

Q. Thank you. Let me read to you from Title 18, U.S. Code, Crimes and Criminal Procedures, Section 1001: "Whoever in any matter within the jurisdiction of any department or agency of the United States knowingly and wilfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes a false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 and imprisoned not more than five years, or both."

Mr. Schwartz, Mr. Nash will ask you a series of questions, and we want you to understand that there's no basis of accusation or innuendo or prejudgment intended. It is only a means of eliciting information from all witnesses and obtaining necessary background information to evaluate all of the circumstances involved.

Q. Will you please state your name and address for the record?

A. My name is David S. Schwartz, Federal Power Commission.

Q. Your home address, please?

A. 7317 Brocksbird Court, Bethesda, Md. 20034

Q. And, what is your present position in the Federal Power Commission, please?

A. I am Assistant Chief, in the Office of Economics.

Q. How long have you been Assistant Chief?

A. Eight years this month.

Q. Will you state the other positions you held prior to becoming Assistant Chief of the Office of Economics eight years ago?

A. When I did accept the job as a member of the Power Commission, I was initially head of the Studies Division, and then subsequently I became Assistant Chief, so that all is enveloped within that eight year span. Prior to that I was at the Federal Communications Commission for approximately six and a half years as a public utility specialist and economist in the common carrier bureau. Prior to that I was at the Federal Power Commission as Assistant to the Chief

Accountant on producer matters in the period 1956-57. Prior to that I was at the University of Maryland as a Research Associate. Prior to that I was teaching overseas for approximately two years for the University of Maryland. I was assistant professor. Prior to that I was an Instructor at the University of Wisconsin. Prior to that I was a graduate student at the University of Wisconsin.

Q. Who do you report to in the Office of Economics?

A. To the Chief of the Office, Haskell Wald.

Q. And, as Assistant Chief, what are your responsibilities?

A. I function on two levels. I conduct independent research of my own. And secondly, I have administrative responsibilities of a supervisory nature over other members of the staff.

Q. In addition to the compensation which you receive from the Federal Power Commission, do you have any other source of income such as stock, bond holdings?

A. I do have stocks and bonds, yes.

Q. Do you have any holdings in oil or gas companies?

A. We are prohibited from holding any securities in any gas company, electric company, or pipeline company, and I do not have securities with respect to these particular sectors—*any* securities whatsoever.

Q. Do you have any vested or unvested rights, insurance plan, retirement benefits, or other financial arrangements arising out of previous employment or from sources other than your own personal financing excluding your governmental service?

A. I do not.

Q. Do you have any relatives working in or for or representing in any capacity the oil or gas industry?

A. Not that I am aware of.

Q. Have you ever worked for or represented under any capacity, the oil or gas industry?

A. I have not.

Q. Will you please relate the circumstances under which you first approached the Commission and obtained employment?

A. I assume at this point you are referring to my original employment in 1956 and '57, or my second stay?

Q. Second stay.

A. I was called by Haskell Wald when I was employed at the Federal Communications Commission, and he inquired as to whether I would be interested in the job as head of the studies division. He had learned that I had been there previously, he was aware of my background in producer work specifically and in my general background in public utility economics. He felt it would be an interesting and challenging position at the Power Commission and asked if I would meet and discuss the prospects.

Q. Have you ever received any honorariums, gratuities, transportation expenses, gifts, or any other thing of value, more than \$10 in value from oil and gas companies, officials, or their representatives?

A. I have never received any payment whatsoever other than reimbursement for my transportation expenses when I participate in a course, the AGA rate fundamentals course, each summer but they are strictly a reimbursement on out-of-pocket expenses and nothing more.

Q. To whom do you teach AGA fundamental rates?

A. To various members of the industry itself, primarily pipeline distributors, although it is true that some of the pipelines have producing subsidiaries. But these are all industry members, and this course is held one week in the summer at the University of Wisconsin.

Q. Are you the only instructor there?

A. No, I am not. In fact, I just participate in a panel the last day of a week session so that they have had approximately five to eight prior instructors, prior to the panel, which is geared specifically to future developments in the natural gas industry.

Q. Has the Commission approved of your participating in that course?

A. Yes, they must do so for me to participate.

Q. Are you a member of the American Gas Association?

A. I am not.

Q. Have you ever had any discussions respecting future employment with any representatives of an oil or gas company?

A. I have not.

Q. Have you ever had any casual conversation over lunch or coffee to that effect?

A. I cannot recall that I have.

Q. Have you discussed your appearance here today with anyone prior to entering this room, apart from Subcommittee staff members?

A. There were members of the Office of Economics who were appearing and they were aware that I would be appearing, but we did not discuss substance, we discussed the fact that we would be appearing before the Committee.

Q. With whom did you discuss that matter and when?

A. I believe, last week that Dr. Wilson and Dr. Wald indicated that they would be appearing, and that when they returned today, they did indicate that they had appeared.

Q. Did you discuss with Mr. Maxson your attended appearance?

A. I did not.

Q. Have you discussed the appearance here of other persons?

A. No, as I say—it was primarily restricted to—I should add one other person, Mel Kofkin, of the office as well. We were checking the schedule earlier to see if he was appearing when I was appearing, just strictly from a scheduling standpoint. But my discussion went primarily to the scheduling, and this applies with regard to the discussion with Wald, Wilson, as well as Kofkin and, as I said, it was strictly limited to members of the Office of Economics.

Q. Did any person to appear here prior to yourself indicate to you the substance of the interview.

A. They did not. In fact they were explicit when I saw Dr. Wilson and Dr. Wald, they explicitly indicated that they were instructed *not* to discuss the interview itself, or any aspect of the interview.

Q. Did that include answers as well as questions?

A. They just generally said the instructions were not to discuss the interview.

Q. Has anyone suggested that you alter or limit your testimony before us in any matter?

A. No.

Q. Are you aware of any oral or written communication respecting the reporting by yourself or others who have been interviewed the substance of the interviews to anyone else after completion?

A. I am not.

Q. Do you believe that you are to report the substance of this interview to anyone else in the Federal Power Commission on completion?

A. It is my understanding that there is no requirement whatsoever. No one has instructed me otherwise to discuss this interview with anyone at the Commission or otherwise.

Q. Could you state for the record where the Office of Economics fits in to the structure of the Federal Power Commission and who the Office reports to in the scheme of things?

A. The Office of Economics, along with other bureaus and offices, has the same status as the operation bureaus and offices. They are directly—the office is directly under the Commission, and obviously its work is *for* the Commission.

Q. If there's a—well, to what extent does Mr. Maxson intercede between the Office and the Commission?

A. Mr. Maxson is Executive Director, and as such he is carrying out the functions of the Chairman in an administrative sense. He does not usually involve himself in substantive issues, but in the actual administration of the Federal Power Commission, the Executive Director acts on behalf of the Chairman, who is administrator of the Federal Power Commission.

Q. If there is a disagreement in position between the Office of Economics and other offices and/or divisions or bureaus, does Mr. Maxson resolve those differences?

A. Yes, he does. He works for a resolution of those differences. I cannot honestly say that he does resolve them.

Q. If he cannot get one or the other of the parties in a dispute to reach an agreement, does he then direct a position to be taken?

A. Yes, he does. But he has in the past indicated that we have the right to appeal his decision to the Chairman.

Q. To the best of your knowledge, how many disputes were taken by the Office of Economics to Mr. Maxson for resolution?

A. Well, I can recall a major controversy surrounding the Southern Louisiana brief that was being prepared, in regard to Southern Louisiana II—the proposed settlement, and a major difference between the Office of Economics and the Office

of the General Counsel—at that time Gordon Gooch was general counsel, and this must have been in late 1970, because the Commission issued its opinion accepting the settlement in July of 1971, and there was some gap in time. At that time the differences between the Office and the general counsel could not be resolved between the two offices. The problem was broached with Mr. Maxson, Mr. Maxson sided with the general counsel, and subsequently a discussion was held between Mr. Maxson, myself, and general counsel Gooch, at which point the Chairman did uphold Mr. Maxson's decision with regard to the actual content of the—and orientation of the staff brief. So, that is one specific instance where Mr. Maxson was involved.

Q. Before we get to the next, can you tell me the nature of the dispute and what the resolution was?

A. Yes. The General Counsel had decided to disassociate the other sectors of the staff from the position of the Office of Economics vis-a-vis its econometric model and some implications that were an analysis that impinged upon the model. At that point, I indicated that the Office of Economics may wish to disassociate itself from other facets of the staff brief, going to reserve estimation and other problem areas, and if we were to segment the staff, it was working against the interests of staff harmony and coordination but more importantly, it was isolating the Office of Economics as not being an indigenous part of the staff. That, essentially was the controversy—whether the Office should be split off from the rest of the staff, and the equities of doing so, when in fact, that we could not distinguish the other areas where the Office in fact would want to take an independent position. And I pointed out it would only be fair that if we were to take—if the staff brief were to indicate these differences, and that the other staff segments were to be in some way reflective of the staff position and the Office of Economics was to be put in a separate category, that we should do so in a continuous and in an integrated way, and that we should have an independent position in all problem areas.

Q. How was the matter resolved by the Chairman?

A. The Chairman overruled my contention.

Q. And does that mean that the rest of the staff disassociated itself from the econometric model?

A. It means that, if you look at the initial brief, that you will find that that section dealing with econometrics and the implications of supply elasticity in the econometric model is delineated as the views of the Office of Economics. The rest of the brief contains a discussion of various problem areas as to cost and reliability of AGA reserve estimate and a whole range of specifics which are attributed as "staff" views.

Q. And are those the views to which the Office of Economics wanted to dissociate itself?

A. Yes.

Q. And are those the views you are not permitted the right to dissociate yourself on?

A. Yes.

Q. Does that mean within the context of that staff brief your office would have taken the position that the reserve estimates were not reliable?

A. It would have taken a position that there were many problems with the reserve estimates and that we could not *ascertain* the degree of reliability that was being ascribed to those reserves.

Q. And what position would you have taken with regard to the course of data in that settlement proceeding, had you been permitted to take a position?

A. That the costs reflected some variables which were controversial and therefore could not be conceived of as specifically objectified in every sense of the word.

Q. Could you elaborate a little on what you mean by that statement?

A. There was a problem of trying to determine the underpinnings for the 26¢ settlement price. The question of determining a cost based objectification depends upon a welter of estimates that go to the underlying productivity and cost per well drilled, cost per—that is, successful well drilled, the cost per dry hole well drilled, these acquisition costs, and when you get to a problem of cost estimation of specific components, there was a problem of going from a specific point determination which was significantly less than the 26¢ settlement price, and the question therefore arose, How does one try to estimate the high side and the low side of cost, which will allow you to envelop the 26¢ settlement price? The Office had some objections as to the actual cost range that was determined, which would provide the underpinnings for the settlement price.

Q. Does that mean the Office estimates at the high side would have been less than 26¢?

A. Yes. There was a possibility that you could find a price below the 26¢ settlement price.

Q. Do you have any other examples of which Mr. Maxson had to arbitrate a disagreement?

A. Well, there are some examples concerning the uncommitted reserve estimates, and specifically the office's desire to obtain the data which would allow us to provide an analytical support for one of the Office's witnesses in the Belco proceeding. This is an area in which Mr. Maxson had to ultimately make a determination and I understand that that determination still has not been made.

Q. When was the matter placed before him for initial determination?

A. Well, I really don't have a specific date that I could point to. I really don't know when this initial decision had to be made. I believe that most of the unfolding of the actual question as to whether the uncommitted reserve data was to be made available to the Office was an inter-Bureau or Office matter, and I am not privy as to whether or not this was taken to Mr. Maxson prior to the current stage at which we are still seeking the use of that data, so I cannot really address the question with the specificity that you imply.

Q. Well, to the best of your knowledge, are you suggesting that the matter was brought to Maxson's attention on or about June 7 or 8 when it was brought to the attention of certain people in the Office of Economics that data was not totally destroyed?

A. Yes, I am suggesting that I learned on June 7th that Mr. Maxson at this point was looking into the matter of the uncommitted reserve data, its availability, and as to whether or not it would be provided the Office for its work.

Q. As I understand it, the Office of Economics was provided four and eight firm concentration ratios several months ago. Is that correct?

A. The Office was provided the aggregated four and eight firm concentration ratios, and when we began checking into the figures, we found that there were significant errors, and became very concerned about the possibility of using the results of that—of the figures provided us.

Q. Are you saying that now the Office requested more than the aggregated four and eight firm concentration ratio—would the office have requested the underlying data?

A. No. I'm saying that the Office has requested that the data be checked so that in fact we can determine whether or not the original figures given us can be corrected, and if so, what the actual four and eight firm concentration is in the various producing areas.

Q. Are there any other instances in which a matter was presented to Mr. Maxson for decision—that you can think of?

A. No, I cannot think of—

Q. You were requested to bring with you today, "all writings of any nature whatsoever, including diaries, logs, and records of telephone conversations, referring or relating to the use or disposition of the documents involved in the alleged attempted destruction." Is that correct?

A. That is correct.

Q. Did you comply fully with that request?

A. I feel that I cannot comply fully in light of the instructions of the general counsel in a memorandum to the Executive Director dated June 14, 1973, in which the general counsel indicates that we cannot provide "any data received by the Commission under assurance of confidential treatment."

Q. Can we have that, please? We'll mark that Schwartz Exhibit One. Can you provide for the record the material that you believe complies fully with the request made of you, except for the material you believe you cannot supply, and then we'll go into it specifically, and identify what you're not supplying.

A. All right. This is the material that I can supply the record.

Q. Schwartz Exhibit Two will be a one-page written note addressed to Mel Kofkin, signed J.W., undated. Schwartz Exhibit Three will be an unsigned one-page written note "stated gas reserves" and relates to a telephone conversation with Zabel. Let the record note that this appears to be a xerox of the original note furnished by Mr. Kofkin about an hour ago. Schwartz Exhibit Four will be a March 21, '73 memorandum from the chief, Office of Economics, from Chief of Bureau of Natural Gas; Schwartz Exhibit Six will be a March 22 hand written note to Mr. Wilson from H.P.W.; Schwartz Exhibit Seven will be—let me correct

the record. State that the preceding document, March 22, will be Schwartz Exhibit Five, Schwartz Exhibit Six will be a copy of calendar entries dated April 2, 3, and 4, unsigned, but which appear to be identical to the diary entries produced from Mr. Kofkin's diary about one hour ago. Schwartz Exhibit Seven will be an April 6, '73 memorandum to Mr. Schwartz and Mr. Wald, unsigned, but apparently from John Wilson, and will be identical to material already received in the record. And Schwartz Exhibit Eight will be a March 7, 1973, letter addressed to the Hon. John Nassikas from Hon. Philip A. Hart respecting a request of the Power Commission to furnish some data. Underlined the Feb. 22, '73, FPC Reserve Report Conclusion. . . . Schwartz Exhibit Number Nine will be April 6, 1973, memorandum addressed to the Chief, Division of Economic Studies, from Melvin Kofkin, entitled "Concentration Ratios—Large Producers Proved Natural Gas Available for Sale." The record will reflect that several numbers set forth on this document have been stricken through and therefore are unreadable. Dr. Schwartz, do you have any other exhibits to supply us in response to the request of Mrs. Barrio yesterday?

A. These are all the documents that I have in my possession.

Q. Will you state for the record how you went about complying fully with the request to produce all documents bearing on this subject matter?

A. I very carefully searched my files, my desk, and attempted to recall where I would have any information that pertained to the general subject area of proved reserves, uncommitted reserves, potential reserves, and after a thorough search, these were all of the documents that I had in my possession that related in any way to questions specifically or generally as relates to reserves.

Q. Will you state for the record as specifically as you can the identification of those documents you believe that should be produced to fully comply with the request but which you believe the memorandum from Mr. Forquer precludes you from producing?

A. Well, I am aware, for example, that Exhibit Number Four, pertaining to a memo from Mr. Joyce to the Chief of the Office of Economics specifically indicates that there is a composite of uncommitted reserves in which the Bureau of Natural Gas calculated for the Office a four-firm and eight-firm concentration. This tabulation was removed because I felt that it would be in violation of the general counsel's instructions. Secondly, the memorandum from Melvin Kofkin to the Chief of the Division of Economic Studies dated April 6, which has been designated as Schwartz Exhibit Nine, did have an attachment to it which restated the information based upon the figures of the Bureau of Natural Gas had provided Mr. Kofkin and correcting the Tables in the press release dated Feb. 22, 1973. I felt that I had to remove this attached table showing these corrections as well. The last document that I did not provide is a memorandum dated June 8 addressed to the Chief of the Bureau of Natural Gas from the Chief of the Division of Economic Studies, John Wilson, with a request for data as it pertains to the uncommitted reserves.

Q. To the best of your knowledge, have you described all the documents that you believe necessary to comply with the request for documents but which you cannot produce because of the constraint of the general counsel?

A. Yes, this is the best that I can recall with regard to any information in my possession in an effort to comply with the directive of the general counsel.

Q. Now, a little while ago you mentioned that the material sought in connection with the Belco proceeding. Is that the proceeding in which the Commission raised wellhead price of natural gas about 73% to about 45¢ per mcf.?

A. Yes. That is the proceeding in which the price for the sale of Off-Shore Southern Louisiana Gas went from an area rate of 26¢ to a new optional rate of 45¢ per mcf.

Q. Now, for what purpose was the concentration ratio—the concentration ratio that you sought to develop to be used in the Belco proceeding?

A. Well, I think it would be helpful if we developed the specific purpose in light of the calendar aspects. As I indicated earlier, the press release on uncommitted reserves is dated February 22, when I noted that the Commission had obtained information specifically related to uncommitted reserves. I informed Dr. Wilson that this would be exceptionally valuable for him in the preparation of his testimony in the Belco proceeding. One of the exhibits there indicates that on February 22, we did contact a member of the Bureau of Natural Gas, specifically Mr. Zabel, to see if we could get the backup information that underlay the February 27 press release on uncommitted reserves.

Q. Did you say February 22 or 27?

A. 27. And the notes indicates Mr. Zabel said that the data had been destroyed and was not available. Now, you have to realize that there was a pre-hearing conference in the Belco proceeding in mid-January. We, at that point, were attempting to organize our thinking and garner information which we felt would be relevant with respect to the market structure aspects, the whole issue of competition, as it would relate to the implementation of optional pricing procedures. This appeared to be a significant piece of information that we could utilize with regard to market structure analysis. Therefore, when I saw this release I immediately contacted Wilson and I said, "Let's see if we can get the uncommitted reserve information and work up some concentration ratios" because this is the only really relevant measure of concentration, that is, the uncommitted reserves. You have to realize that Belco went into hearing on February 28, and concluded on March 27th. We initiated our request shortly after the press release came out on February 22 and certainly no later than the 27th because that's when we received a response from the Bureau of Natural Gas that the data was not available. Now, Wilson was working on his testimony during this time, and because of our realization that this would be specifically valuable in the determination of concentration in the area where it counts—in the uncommitted reserves—and how this would tie to any discussion of market structure and the competitiveness of the gas producing sector, we pressed the Chief of the office, Dr. Wald, to contact Joyce, in early March, after having received Zabel's response to see if, in fact, there was a set of data available, which in fact, Zabel was unaware of. Some time in March, Joyce said that Zabel was in error, and that in fact, information was available. Data—the uncommitted reserve data—was available on a company-by-company basis, and that they would work the figures out for us.

Q. To whom did he say that Zabel was in error?

A. He said this to Mr. Wald.

Q. And in what context did he say that Zabel was in error, in the context that the material would not be withheld from your office, or in the context that the material was not really destroyed?

A. In the context that the material had not been destroyed.

Q. How do you know that Mr. Joyce made the remark to Mr. Wald that the material had not been destroyed?

A. Because this was the comment that Mr. Wald made to me.

Q. When did he make this comment to you?

A. Mr. Wald made this comment to me, and you must realize, that I was pressing Wilson and Wald, because I felt the information was very important, and therefore I can recall—fairly accurately and precisely—that it was some time after I talked with Wilson about the significance of the data and Zabel had responded and Wilson came back to me and said, "What can we do now?" And I was the one who said that we had to press Joyce and that it was advisable to go to Dr. Wald in order to ascertain whether in fact we could have access to that uncommitted reserve data because perhaps Zabel was not aware of the existence of more than one set. And when I talked with Wald shortly thereafter, he said that he had discussed this with Joyce, and Joyce had told him that in fact, the data, was available and that they would work out the four and eight firm concentrations for us.

Q. Well, for the purposes of this record and this question, there is a distinction and a difference between Mr. Joyce saying that the material was available and Mr. Joyce saying that the material had not been destroyed. I'm trying to ascertain whether at that time frame, Mr. Joyce was aware of the alleged destruction of the material and he acknowledged such awareness to Mr. Wald by specifically saying to Mr. Wald that the material had not been destroyed. Is that your testimony, that Mr. Wald specifically related to you that Mr. Joyce stated the material was not destroyed?

A. It is my recollection that Mr. Wald related to me that Joyce had told him Zabel was in error and that the data was available and that they therefore would work out the concentration ratios for us.

Q. Did Mr. Wald elaborate as to whether the comment by Mr. Joyce that Mr. Zabel was in error was in the context of the availability of the data to your office because it was confidential compared with the availability of the data to anybody because it was destroyed?

A. I don't recall that it was put in that context. The context that I do recall was that there seemed to be an effort to correct the impression that Zabel had left that the data had been destroyed, and in addition to utilize the data that was available in order to satisfy our needs. That was as clear as I can recall.

Q. I appreciate that. I just wanted the record to reflect the importance of it and that there should be no misunderstanding respecting the use of your terms.

A. Yes, I think it's important to back up a little bit so that we don't lose the context.

Q. Yes. I was going to ask you, if I might, to give us the context of all these events in relation to the need for the material from Belco proceedings?

A. Now, Dr. Wilson completed his cross-examination on March 22. We were awaiting the information on the four and eight firm concentration from our initial request, obviously, in late February, certainly prior to February 27, and then after prodding Mr. Joyce in early March to determine whether or not the data was available, we were awaiting the information so that Dr. Wilson would have that information to utilize for his cross-examination, and this information was not provided us, and I might add, that this was information which we felt had many errors but nonetheless, the initial information on the four and eight firm concentration was not provided us until March 22 and that was the day that Dr. Wilson had completed his cross-examination in the Belco proceeding.

Q. Was Mr. Joyce and Mr. Mangen aware of the reasons that your office wanted the concentration ratio data?

A. Yes. We explicitly told that we wanted it for use in the Belco proceeding, that it would be important to us in our general development of our market structure analysis and the general question of Is the industry workably competitive? And can we rely upon contract prices or must we rely upon cost-based prices? if, in fact, there are market imperfections.

Q. Specifically, did Mr. Joyce know this?

A. I do not know for a fact that he knew this. I did know that we were communicating with Mr. Mangen as to our need for this information for the Belco proceeding.

Q. Do you know whether Mr. Wald communicated with Mr. Joyce the reason for your need of the data?

A. I know that I communicated with Mr. Wald the reason why this information was important. I do not know if he communicated it to Mr. Joyce.

Q. Sorry for the interruption, please continue.

A. That's quite all right. . . . So that, although Joyce's memo is dated March 21, actually the information was not provided us until March 22, and this was the day that Dr. Wilson had completed his cross-examination and our ability to utilize any of this information was therefore unavoidably negated.

Q. Could you not have utilized it in your brief?

A. Well, then we got to the general question of the errors in the information and the warning in Kofkin's April 6 memo that we had to be very cautious about using the information, so that, we would have to go back and correct the errors and obtain what we would consider reliable four and eight firm concentration data, so that it could be relied upon for briefing purposes. But if you will note, the April 6 memo from Mr. Kofkin indicates that in contacting Mr. Mangen in order to correct the errors, that the data had been destroyed—this is the second destruction, that is.

Q. When you were so notified, did it cross your mind as to whether the material was really destroyed this time, did you make inquiries to find out if it was really destroyed this time?

A. When I heard—when I received the Kofkin memo, I recall asking Kofkin to take the worksheet and consolidate the information so as to get a breakout by producing area and four firm and eight firm concentration in a summary fashion, and I thought that perhaps we could verify in a range of magnitude the validity of the four and eight-firm concentration ratios once we had that summary prepared. At that point, the press of business evidently was such that Kofkin did not provide me with the information I had requested. It is my understanding that Dr. Wilson was still pursuing this question of the data availability on his own, but I did not really involve myself beyond just the limited manner which I have just described. Perhaps if Kofkin had provided me with the information I asked him to, I would have pursued it more intently. . . . I guess, there's just one other facet I should express, and that relates to the fact that anything beyond the April 6 date, since this indicates the destruction of the data and its supposed unavailability, I was aware of because of the memorandum which Mr. Maxson had in his possession, which I read on the date of June 8th.

Q. Will you describe for the record what memorandum Mr. Maxson had in his possession on June 8th, which you read?

A. On a prior date, June 7th, Dr. Wilson came to my office quite late in the afternoon and indicated that Mr. Maxson had been in to see him and that he was conducting a personal investigation with respect to the uncommitted reserve data, whether in fact it did or did not exist, and he informed Dr. Wilson at that time in fact it *did* exist. Very frankly, I was under the impression that the April 6 memo indicating its destruction pretty much was of a final nature. But Dr. Wilson indicated to me that Mr. Maxson had assured him that the data was alive and well and that he wanted him to see this verification and show him a memorandum which he attributed to Mr. Vivian, who is our security officer, and Dr. Wilson, in his discussion with me pointed out that perhaps it would be advisable that I discuss with Mr. Maxson the following morning about my own concern regarding the importance of the uncommitted reserve data. That is the reason why Dr. Wilson and myself, early in the morning on June 8th, went to Mr. Maxson's office. I pointed out my concern about not having access to the uncommitted reserve data, its importance to the office, the fact that we had tried to get verification of what I considered very significant evidentiary material, filled him in a little bit on the background and pointed to the fact that I thought it was important to us to correct the data. And in the course of our discussion, I raised the discussion about whether or not we would have access to the data and that in fact I was confused about whether the data in fact *did* exist. He showed me the memorandum from Mr. Vivian and the specific contents indicated that in fact Mr. Mangen had *not* brought the data to Mr. Vivian for destruction prior to April 24. In fact, due to a number inadvertencies, the data had *not* been destroyed although it was in the possession of Mr. Vivian, as I understand it, from April 24th, until May 23rd. That Mr. Vivian had prepared the data for destruction, that the incinerator had broken down, in the interim there had been a move to the new building, but due to a set of unforeseen circumstances, when Mr. Mangen checked with Mr. Vivian on May 22nd in order to verify some figures that he felt he had to look into, Mr. Vivian informed Mr. Mangen that at that point, although he had torn the data and put the data in burn bags (laughs) that, nonetheless, the data did exist. The last point, as I recall, in the unsigned memorandum that Mr. Maxson showed me on June 8th, was that Mr. Joyce had retrieved the data and it was currently in his possession.

Q. Was the memorandum written—was it handwritten or typed?

A. The memorandum was typed, but it was unsigned.

Q. Who was it addressed to?

A. I believe it was Mr. Maxson.

Q. How do you know it was Mr. Vivian?

A. Mr. Maxson verbally informed me that it was from Mr. Vivian when I questioned the fact that there was no signature on the bottom of the memorandum.

Q. In what connection did Mr. Vivian give the memorandum to Mr. Maxson?

A. Mr. Maxson, during the course of the discussion, indicated that when he began making inquiries about what had occurred with regard to the data, its availability, who had possession of the data, when did Mr. Vivian in fact himself physically have possession of the data, that Mr. Vivian in compliance with Mr. Maxson's request, detailed the specific information that I have cited earlier.

Q. Do you know how many other reports or memoranda, if you will, respecting the document destruction were at that time obtained by Mr. Maxson?

A. I do not know.

Q. Do you know whether he obtained similar reports from anyone else?

A. I do not know.

Q. When Mr. Mangen desired to retrieve part of the data to check something, on May 22nd, or May 21st—whatever the date—

A. 22nd.

Q. from Mr. Vivian, did he seek to obtain the data because of the outstanding request from your office for correction and verification?

A. That is not my understanding.

Q. Why did he seek the data, then, do you know?

A. My understanding is that there was a figure that he needed for his own purposes that prompted him—that is, Mr. Mangen's own needs that prompted him to inquire as to whether or not Mr. Vivian still had the data.

Q. Who led you to believe that he wanted the data for his own purposes?

A. This was, as I recall, what Mr. Maxson conveyed to me.

Q. Is your testimony that, to the best of your knowledge, Mr. Mangen became aware of the existence of the data on May 22nd but did not communicate to your office that fact until Mr. Maxson communicated it to you on June 7th?

A. To the best of my knowledge, that is my testimony.

Q. Do you believe that the data was withheld from your office because—from knowledge that your office intended to use it in the impending Belco proceedings?

A. It is my belief that the data was not expeditiously provided because there was the possibility that it could be used in a detrimental fashion in regard to the market structure question, if in fact the data permitted a questioning of concentration over significant supplies.

Q. Why would—assuming *arguendo*, the numbers showed what you speculated they would show, why would proof of that be detrimental to the Bureau of Natural Gas?

A. At this point, we cannot impersonalize by attributing it to the Bureau. I feel that we've got to attribute it to specific individuals in the Bureau, who would feel that it would be more in line with their own orientation as to what would be an appropriate approach in the proceeding, and the use of the data relating to uncommitted reserves, if in fact it showed a high concentration would run counter to a predisposition of those individuals.

Q. Who are the individuals and what do you believe their predisposition to be?

A. Specifically, I believe that Mr. Joyce would not be so inclined to provide the information if he thought that it would reflect detrimentally on industry structure. I also believe that there is at least one Commissioner who probably would feel that this information would not be helpful with regard to his own previous position.

Q. Who is that Commissioner?

A. It's Commissioner Moody.

Q. Do you have any opinion respecting Mr. Mangen's predispositions?

A. My contact with Mr. Mangen dates back many years. I worked with him in the first South Louisiana rate case back in 1965, and I see him more as a functionary, rather than as an individual oriented one way or the other. As a good technician, I believe he would just want to do the job expected of him. I don't really think he has thought through on an ideological or philosophical level any of the really cogent issues in producer regulation. He is a geologist, as a technician he primarily tries to do the job that is assigned.

Q. Is it your opinion that Mr. Mangen, therefore, was not making decisions respecting the use or disposition of documents, but was carrying out the instructions of someone else?

A. I can only surmise, and I do not know for a fact, but I think it is logical to make that assumption.

Q. How critical to the testimony of Dr. Wilson do you believe that the concentration ratios were, that you attempted to get?

A. This is a rather difficult element to categorize, but the truth is that Dr. Wilson had a very significant amount of evidence on interlocking and joint relationships in the producer industry. I think the significance really lies in the general determination as to what is *relevant* to measuring concentration, and I think it would be a *very* significant piece of information to measure concentration of uncommitted reserves in contradistinction to the industry's measure of concentration on the basis of gas produced.

Q. Did the industry put in evidence respecting their measures of concentration?

A. They did not in this proceeding. They have in prior proceedings. In the Belco proceeding they pretty much relied upon what had been done in the earlier area rate proceedings and so, Dr. Foster, who did testify for the producers, pointed to *earlier* evidence put in on concentration.

Q. Is that what the Commission relied upon in its opinion?

A. In the earlier rate opinions, or in the Belco?

Q. In the Belco case?

A. In the Belco case, the Commission relied upon Foster's and Sherman's testimony and specifically rejected Dr. Wilson's testimony with regard to the nature of industry structure.

Q. I know that the FPC released—the aggregate reserve figures on February 22. Now, based on your experience, do you believe that Mangen would have any need for such information on May 22, when he allegedly sought some additional data from Mr. Vivian?

A. Well, my understanding was that Mangen asked for data as it pertained to one specific company. Therefore, I would think that the tie between the February 22 press release and his request is rather tenuous.

Q. Would the material withheld from your office as you intended to use it, identify any specific companies or identify the reserves attributed to any specific company?

A. No. We had given assurances that we wanted to composite the information and that there would be *no* company identification.

Q. I am not an economist or statistician, as you might know, and it's hard for me to judge how long it would take a competent statistician or a person with the competence of Mr. Mangen, who was familiar with the documents, to compile the information you wanted in the form you wanted. I understand you made the request on or about February 27 and then Mr. Wald followed it up early in March. Are we talking about a week's work, ten days' work, or what?

A. Well, if you will check the press release, you will see that there is a letter of transmittal to the commission by Mr. Joyce, and in that memorandum of transmission, he points out that 79 companies were canvassed—I believe he does—it is my understanding that in fact, approximately, 30 companies actually responded. Given a sample of 30 companies, it is inconceivable to me to think that it would take anything more than two or three days to composite the information in the form of a four or eight firm concentration.

Q. Well, would that require just scanning the reports and pulling out the four or the eight highest numbers you find for each area?

A. I—there are a number of ways of working with the data. You can tally 30 companies and their reserves (laughs) that they have not committed to sell. You can then gauge what proportion of the top four firms and what proportion of the top eight firms have of those total uncommitted reserves. I would say, allowing two or three days for this type of arithmetic mechanical process allows for checking the information, seeing to its internal consistency, trying to determine whether or not it appears to be reported in a reasonable form, or whether or not some of the reporting appears to be out of phase either because of statistical error or because of inadvertence. It's that type of thing that I'm trying to make allowance for.

Q. Maxson Exhibit Six, page three, is a February 9, '73 memorandum to the Commission from the Chief of the Bureau of Natural Gas, subject: Docket R-405. The last sentence of the first paragraph indicates "all respondents have now replied." Now, upon what basis do you assume that only 30 out of the 79 companies responded to the questionnaire?

A. If I did say that, then I misspoke. I said that 30 reported that they had uncommitted reserves.

Q. I see. I appreciate that. So, to the best of your knowledge, 49 said, sorry, we have nothing to report because we have no uncommitted reserves. Is that correct?

A. Excepting, if you read Joyce's memo dated February 9, he says, "Many of the respondents filed late and 15 did not file at all." At this point, I do not know for a fact whether the 15 did ultimately file with the Bureau of Natural Gas.

Q. I see. I see. . . . What procedures were used to audit the companies that filed saying, "We have no uncommitted reserves,"—did FPC auditing go through the companies' books and records to ascertain the accuracy of such report?

A. I have no way of knowing.

Q. When you got the four and eight firm concentration ratios from the Bureau of Natural Gas, did they inform you whether the four and firm concentration figures related to X number of companies that had available reserves—that is, four firms out of 30 or four out of 79, whatever the figure might be?

A. That was not indicated on the worksheets that were provided.

Q. Do you consider that to be a relevant consideration?

A. I certainly do.

Q. Dr. Schwartz, based upon Mr. Kofkin's second determination that errors existed which he could not reconcile, can you tell us today whether errors exist solely in the data provided your office by the Bureau of Natural Gas, whether errors exist solely in the Commission release and conclusion that natural gas reserves declined by 26% or whether errors exist in both documents?

A. It is my understanding that the tables contained in the press release showing proved reserves by producing area, in fact, are not accurate, and that there are errors in Tables 1 and 2 attached to the press release. Secondly, it is my understanding that errors exist in the four and eight firm concentration ratios that were provided us in that in fact tabulations made by Mr. Kofkin indicated that the information given us was inaccurate and unreliable.

Q. In your judgment, what significance, if any, should be attached to the Commission release reporting that uncommitted reserves declined by at least 26%?

A. At this point, I would say that, given the controversy that surrounds the accuracy of the data, it is necessary to thoroughly evaluate and assess whether or not this information is reliable.

Q. Let's assume for the moment that the information is reliable, or let's assume that we can compile accurate numbers responsive to the Commission's questionnaire. In your judgment, what would the significance of such a study have in the present question of the gas reserve problem and the need to increase the prices to elicit more supply?

A. Well, there are a number of implicit questions in the one general question that you raise, but certainly, the general question of supply availability and the controversy surrounding the accuracy of reserve reporting still is locked under a cloud, and that with this data at this point reflecting unreliable figures, we no longer can get any semblance of information which can attempt to lay to rest all of the doubts and controversies surrounding natural gas reserve estimation. I would think that at this point we cannot depend upon the reporting of this uncommitted reserve information. This is accepting the confines of the 79 company study that was promulgated by the commission. The other question that you raised as to price as a supply-eliciting factor has much broader implications than just the reserve study itself.

Q. Dr. Schwartz, to go back to the previous question now that the tape has been changed, do you see any correlation between the FPC study, assuming for the moment that the numbers are reported accurately, reflecting on the reliability of the American Gas Association sponsored reserve reports?

A. Well, it would appear that if you looked at the availability of uncommitted reserves reported in January '72, of 3.4 trillion cubic feet, that it would reinforce and verify the AGA contention that there are very few reserves that have not been committed to contract. In that way, it would appear to support what the industry's general position, that there is no withholding, that supplies are being made available and that there is an intimate linkage here between what the companies reported and between what the AGA has been contending.

Q. Do you believe, then, that this study can be judged by reasonable men to be supportive of the AGA position and that reasonable men should now rely upon the AGA reserve estimates?

A. It would appear that if one were to just start with the premise that the AGA reserves are validly determined and that there are no questions which are unanswered as to how those reserve estimates are made, then it would follow that this specific piece of information would be a collateral piece of evidence to validate the AGA reserves. But, if one starts with some of the fundamental reservations about AGA reserve estimation, then of course this would just lead to some of the questions as to whether or not these figures did not in fact organically relate to a predetermined predisposition.

Q. Are you suggesting that this study was not designed to be a critical examination or critical test of the accuracy of the AGA report?

A. It may reflect the preconceived symmetrical relationship between the AGA reports and the desire to show uncommitted reserves which are a mirror image.

Q. Along the same line, let's reflect for a moment on the Natural Gas Reserves study in May, 1973. I believe that study concluded that the AGA reserve reports were indeed on the high side; we really have 9% less reserves than reported by the AGA. Do you believe that study to be a valid critical assessment of the AGA reserves?

A. I have not gone into the study with a detailed analytical involvement which would permit me to discuss with specificity the welter of information contained in that reserve study. I have some fundamental reservations as to how the study was organized and it is based upon these basic assumptions which we need to have many reservations and uncertainties as to the ultimate conclusions. Firstly, you have to realize that you can in no way check back the total full reserve figure provided. What you have are aggregate comparisons of AGA 1970 reserve estimates, FPC 1970 reserve estimates,—*in toto*—we do not have an area by area breakdown so that we could check specifically the relationship and the actual reporting by AGA on a producing area basis as it comports with the *staff* AGA, the *staff* estimate on a producing area basis. We have no breakout.

Q. Was such material compiled by those making the study? That is to say, I know the aggregate, and the aggregate alone was furnished in the study, but was the field-by-field number corrected before it was put together for aggregating purposes?

A. It is my understanding that the field-by-field information was provided by the AGA to the staff through an intermediary, which was some accounting firm, but the staff did have the individual field-by-field data that fit the producing categories used by AGA in its reserve estimates.

Q. Does that material still remain intact, or was it destroyed?

A. I don't know.

Q. Who was the person responsible for collecting on behalf of the staff the field-by-field estimates?

A. Mr. Mangen was in charge of the FPC reserve field.

Q. Did your office request access to such data?

A. Well, with what recently came out, we have not requested, to my knowledge, any of the detail underlying those estimates. It may be that it is an area that the office should explore. I wanted to go back and give you one other fundamental reservation with regard to the staff study in AGA reserves, and that is, if appears the staff used the same field-by-field categories that the AGA used. It would appear that in order to get an independent estimation the staff should have gone *outside* the fields provided them to make an independent assessment as to whether or not reserves of any significant magnitude were present, which in fact were not confined to the AGA's own delineation of the fields provided the staff. This appears to be a very *crucial* consideration if we were ever to discover in fact fairly substantial reserves that were not reported by AGA.

Q. Are you saying that this study was designed not to look for independent reserves that may have been withheld but to substantiate the viability of those reserves that the AGA has in past reported to exist?

A. I am saying that the way the study was conducted can legitimately raise the question whether or not this was an independent reserve study.

Q. Did the study make any forecast of future gas supply or future gas supply based on hypothetical assumptions of future area prices?

A. No, the study essentially was a verification of AGA reserve estimates made in 1970.

Q. Did the study make any forecast of future gas supply or future gas supply approved, a forecast was to be made by the study. Can you shed any light upon that?

A. To my knowledge, the supply committee was to in fact make some supply estimates based upon assumptions of elasticity. This, I believe, was to be independent of this reserve estimate of the 1970 AGA reported reserves—proved reserves. I believe what you are referring to relates to the broad purpose of the supply committee in trying to gauge potential supply elicitation at varying prices and the anticipated new commitments that would result. I believe that was part of the natural gas surveys undertaken and part of the general charge that was made.

Q. Was such a forecast made by the companies?

A. I believe that a number of companies had individual supply estimates—price-elasticity estimates—submitted to the supply committee. This, I believe, was not incorporated in the supply committee report itself.

Q. Are the forecasts made by the companies a matter of public record?

A. At this point, I am not certain that they are. I do know that there has been some debate as to whether or not they should be made part of the public record. The coordinator of the survey, Mr. Paul Root, at one time said they would not be made part of the public record and then at another time, I understand that he said they would be made part of the public record. As yet, I do not think that they have been made public.

Q. Has your office requested access to such data?

A. Our office has requested access and we have obtained copies of the information.

Q. Has it been restricted to administrative use?

A. As of the moment, that is my understanding.

Q. Have you been aware and are you now aware of any conversations or discussions within the Commission respecting the reorganization of the Office of Economics and parceling out the staff of Commerce to different Bureaus?

A. I have heard this mentioned more in light of(?) active independent role in Commission affairs, but I have not been privy to any discussion within the

Commission by the Commissioners or any of their top level administrative personnel, such as Mr. Maxson, as to whether, in fact, this is seriously being considered.

Q. From whom have you heard this possibility?

A. I've heard it from second level echelon people working under Mr. Joyce, and other offices, such as the office of the Chief Accountant, usually tied to some specific event that had occurred in which the office had played an active role, and more in terms of passing the individual would make the comment, "Well perhaps they won't have the opportunity in the future to serve in this highly individualistic capacity."

Q. Since you received a request from Chairman Hart to testify before this Subcommittee, were you aware of any discussions or indications from Commission personnel or otherwise that your acceptance of such request will reflect adversely upon you within the Commission?

A. Nothing has come to my attention in that respect.

Q. Has anyone indicated displeasure at you for accepting such a request?

A. Chairman Nassikas did indicate to me personally that he thought it was unfortunate that the invitation had been extended and he did say to me that he felt that staff appearing at the same time as Commissioners were appearing in which there would be controversy or differences of views could undermine the (?)—that as a general practice it was inadvisable for staff to take a position contrary to the Commission.

Q. Did you take his statement as a suggestion that you decline the invitation in the interest of the Nation?

A. It was very difficult for me actually assess what Chairman Nassikas had in mind because the statement could be taken in two ways—it could be taken that this is a very serious matter and that is it unfortunate that we have staff appearing in opposition to Commission and Commission policy and Commission orientation; it could be taken on the other hand, that it would be advisable that you did not appear, because this is so serious that your appearance could be damaging in a very fundamental sense. Since he did not elaborate as to one meaning or the other, I feel it is very difficult for me to say "Yes, he meant this or he meant that."

Q. How could it be damaging if the Congress has views aired other than or in addition to views espoused by the Chairman?

A. Well, in the Chairman's discussion, he pointed out to me that there would at least be two of the three Commissioners whose views would be markedly different from mine, at that point indicating that perhaps his views would or would not parallel mine, but that to come before the Congress and show this degree of dissension, particularly when the leadership itself had concluded that deregulation and all the issues attendant upon deregulation, as to pricing, supply elicitation, as to the very nature of industry structure—that all of these had been resolved by the majority and that for the staff to question the Commission on such fundamental policy issues was inappropriate.

Q. Did you make any observations or any reply to the Chairman?

A. Initially I said that I thought the nation could withstand the impact of the staff disagreeing with its Commission. Secondly, I pointed out to the Chairman that I felt it was unfortunate that there was not a dissenting Commissioner who could be assisted by the staff to develop a position which would defend the need for regulation and the advantages of continued regulation vis-a-vis consumer protection.

Q. Can you describe the tone of the Chairman when he was telling you these things?

A. The Chairman was not angry, but I believe the Chairman was constrained to control the discussion.

Q. Did he have any comments to make about the request of Chairman Hart of Chairman Nassikas to testify before the Subcommittee?

A. Only the general comment that he felt that Senator Hart should not have placed the Commission in this posture.

Q. The posture of the Commission taking positions different than the staff, or the posture of having to come up before the Congress and respond to questions respecting its decisions.

A. I believe, the latter—No, I'm sorry, specifically discussing the fact that Senator Hart had created a situation in which the staff and the Commission would be before the Committee in open hearing and which the position which obviously would reflect some very basic disagreements would be surfaced.

Q. We have some conflicting testimony respecting Commission policy on Congressional mail to staff persons. Based upon your own experience, can you state for the record what your experience has been respecting mail addressed to you from members of the House or the Senate.

A. Yes, Chairman Nassikas has explicitly told me on at least *two* occasions that any mail addressed to a member of a Commission from a member of Congress could be opened by the Chairman, because, in fact, as head of the agency, he has the right to provide the necessary surveillance with respect to any Congressional contact.

Q. In fact, has any of your mail from members of Congress or the Senate been opened by the Chairman?

A. Yes, I can recall some early correspondence from members of Congress that have arrived with the envelope opened. Of late, Chairman Nassikas has used the pattern whereby he will call me and tell me that he has in his possession a letter that has been addressed to me with a Congressional frank on the envelope. He has then said, "I will not open the letter, but you know that I have the right to do so."

Q. And then what has happened?

A. On one occasion, he sent the letter over to our former K Street address unopened, after I told him that I had no concern that he could open the letter from Congressman Torbit McDonald. With regard to the latest request to appear before the Antitrust Monopoly Subcommittee on the 27th of this month, Chairman Nassikas again held the letter and sent it to me unopened, and then immediately thereafter called me to his office to discuss the letter and the contents thereof.

Q. Did you ever receive any instructions from the Commission or anyone else respecting the maintenance, return, or destruction of confidential data received from outside companies?

A. No, because our office really does not have access to any confidential information. We are not the depository of any specific reports that are filed by the industry, and we do not have any routine function that relates to any specific report forms that might be filed. Therefore, there would be no need to give this type of instruction.

Q. Are you familiar with any Commission rules or regulations respecting who might be authorized to destroy data received from the industry?

A. No. Frankly I was surprised to learn that we had a clearance officer and security officer and that there was such things as burn bags. I had no knowledge of this type of apparatus and it really came as quite a shock.

Q. Are you aware of any other instances in which data received from industry was either returned or destroyed?

A. I am not aware of any information being returned or destroyed. I am aware of other instances in which we requested information other than this uncommitted reserve information, which was not provided us.

Q. What kind of information has the Commission requested which it was unable to obtain?

A. I'm talking about the office has requested.

Q. Oh, you mean your office has requested?

A. The office has requested of other divisions.

Q. Oh, I was not aware of that. Could you enlighten the record, please?

A. Yes, I recall that when the original data was obtained by the Office of the General Counsel pertaining to intra-state prices, we asked the then-general counsel, Gordon Gooch, if the office could go through the specific information provided the officers certified by the Commission, who went into the various producing areas to obtain intra-state contract prices. We wanted to, at that point, determine who the sellers were, who the purchasers were, in addition to just the composited price information which was provided in the release associated in with intra-state sales. At that time the general counsel's office said we could not look at the information.

Q. Who was general counsel then?

A. I believe I mentioned earlier it was Gordon Gooch. And we have recently again requested the updated intra-state information which was filed last September, (1) to get some insight greater than just the weighted average intra-state price, and the range of intra-state prices to obtain specific information as it relates to purchasers, even in an aggregate form, just listing of purchases without any attributed volumes purchase, and we have yet not been given assurances as to whether or not we can obtain that information.

Q. Have you ever been told why your office cannot obtain such information on file with the Federal Power Commission?

A. The usual explanation is that this is confidential information which is being provided the Commission with the understanding that it be kept confidential. Now, obviously, the question arises why is not the Office of Economics an essential part of the Commission, so as to be permitted access to what would be termed "confidential" with respect to distinguishing the public generally as over against the Commission staff.

Q. I might have asked this question—you can remind me if I have, but are you aware of any other instances in which documents were returned to companies or destroyed? I have in mind the newspaper comments that attribute to Mr. Mangen the statement that he was following prior Commission procedure in the Southern Louisiana case and in the Natural Gas survey.

A. Why, I do recall Mr. Mangen's statement in that respect. I don't really know the interworkings of the Bureau of Natural Gas, and in fact what procedures they have established vis-a-vis the information they've obtained from the industry and their commitment to the industry as to whether or not the data could be retained, destroyed or returned.

Q. Are you quite certain that in the memorandum from Mr. Maxson to Mr. Vivian, which was unsigned, which you testified you saw, the day after you were apprised of it by John Wilson, that such memorandum stated that Mr. Vivian received the material to be destroyed from Mr. Mangen on April 24th?

A. That is my recollection.

Q. Have you ever heard any discussions, either directly stating or implying that the destroyed—the alleged destroyed documents related in any way to the request of Chairman Hart for access to such data made March 7?

A. It would only be hearsay, and therefore, I think has very little weight because none of the Commissioners or members of the administration or bureau chiefs in fact did convey that this was the factor that prompted the destruction.

Q. I appreciate that it might be hearsay, but it would be helpful for the record, since this is a preliminary investigation, it might help us to track down potential leads to verify it or to determine there's no basis for such conclusions. So, if you could state the hearsay for the record, we will try to verify it or put it to rest.

A. I believe it was in my discussion with John Wilson, when in fact this possibility emerged as to why the information was, at that point, designated as "nonexistent."

Q. Was that John Wilson's supposition?

A. I believe so.

Q. When your office appeared in the Belco case in opposition to the company's request for 73% increase in rates, did you receive any criticism or expression of displeasure from the Commission for the position your office had taken?

A. Well, obviously, the question revolves around "receive any displeasure." We were aware that certain assistants in Commissioner Moody's office were very upset as to the position the office took. This was of a very longstanding nature in that at the very initial stages of the optional pricing rule-making, the office took a very strong stand as to the inadvisability of pursuing this particular path toward Commission pricing, and Commissioner Moody's assistant specifically sent me a memorandum criticizing my own evaluation of the optional pricing procedure, which was an internal evaluation made to the Commission prior to the actual issuance of the rule, and his assistant pointed out that the analysis provided would be troublesome and he indicated his disagreement with some of the contentions and analytical conclusions, so that within that context, there was feedback vis-a-vis the counsel on the case, that Commissioner Moody's office was very disturbed as to the position taken by the office in the Belco case.

Q. Did the Bureau of Natural Gas appear in that case either in support of or in opposition to the rate increase?

A. The Bureau of Natural Gas presented a nationwide costing, which—and a recommendation of a 35¢ price, and to that extent, you have their participation in the opposition context, to the applicant's request of 45¢. But the Bureau of Natural Gas did not involve itself in the fundamental question as to whether or not we could rely upon contract prices as the Belco optional pricing procedure developed and the rationale for optional pricing itself predicated upon contract prices as distinct from cost-based prices. The Bureau of Natural Gas really did not get into what one could call the "fallout" of the market structure question as to whether or not contract prices were competitive prices and therefore could be relied upon.

Q. To your knowledge are there any employees in the Bureau of Natural Gas who have obtained their jobs through Commissioner Mooney or who otherwise owe allegiance to Commissioner Moody?

A. I do not believe that I am aware of any specific individuals that were suggested by Commissioner Moody and ultimately employed by the Bureau of Natural Gas.

Q. Do you know a gentleman named Tourtolette (gives spelling)?

A. He is a member of the legal staff and I believe he was there. He was at the Commission—I can't say that for a fact, I don't know. I know that James Tourtolette is an attorney in the office of general counsel, but I don't know whether or not Commissioner Moody was instrumental in . . .

Q. I wasn't trying to relate him to Commissioner Moody.

A. Oh, I see.

Q. You say he is an attorney in the Office of General Counsel. Did he work on the Southern Louisiana case?

A. The second Southern Louisiana case?

Q. Yes.

A. I think at one stage he was brought in the second Southern Louisiana case.

Q. Did he obtain employment because of Gooch?

A. I believe that he was brought in at the time that Gordon Gooch was general counsel.

Q. Do you know whether Tourtelotte made any decisions respecting returning of documents or destroying of documents supplied by companies in connection with this episode in the Louisiana case?

A. I do not.

Q. One final question or two. I take it you're aware that the Federal Trade Commission is conducting an investigation into the accuracy of the American Gas Association reserve reports, is that right?

A. I am aware of their investigation.

Q. Have you received any instructions from your commission or from other personnel within your Commission respecting the degree of cooperation or relationship you're permitted to have with the Federal Trade Commission or its investigators in that case?

A. I personally have not, but then again I would not have any information which would be sought by the Federal Trade Commission. We probably have as little information as they do with regard to the reserve estimates (laughs).

Q. Did you participate in any meeting in Mr. Gooch's office or with the Federal Trade Commission staff in connection with that investigation?

A. No, I have not.

Q. Was the impression ever conveyed to you that the Federal Trade Commission staff could not communicate with the FPC staff without going through the office of general counsel.

A. I do recall discussions held among the staff in which this fact was surfaced.

Q. Which staff—Trade Commission Staff or Power Commission Staff?

A. Power Commission Staff.

Q. Can you tell me who was there and in what context this surfaced?

A. One of the problems is that I don't have any specific recollection other than the fact itself that the general counsel in effect would control any contacts made with the Federal Trade Commission, and I just cannot recall whether it was other members of the general counsel staff, and it's most likely, because these are the people that I talk to in my responsibilities in overseeing the hearing work of the office.

Q. In the course of the Federal Trade Commission's investigation of the AGA, if they sought your assistance and cooperation, do you believe you would be more apt to talk clearly if observers from the general counsel's office were not present?

A. Yes.

Q. Why is that?

A. Because there is a tacit understanding that the general counsel's office is there to serve the needs of the Commission and that the Commission has a definite antipathy towards the investigation that is being conducted by the Federal Trade Commission. Therefore, if in fact, the various attorneys who are members of the general Counsel's staff are seen as functionaries of the Commission and the Commission is very unsympathetic to what the Federal Trade Commission is attempting to do, we can therefore see that one would be uneasy in just objectively trying to answer questions which would be posed.

Q. Have you heard the Commission's displeasure at the Federal Trade Commission's commencement of this investigation?

A. I have not been present in any situation where that is a fact. I and here again, have only "heard" that the Commission is displeased because of the Federal Trade Commission investigation, and that stems from the fact that they thought their own gas survey should be adequate in verifying the AGA reserve estimates.

Q. Can you tell us the basis for your hearing of their concern?

A. Hearing, and just more general talk around the Commission. It's very difficult to tie it down to any specific individual or individuals.

Q. Thank you very much, Dr. Schwartz. The Senate Subcommittee staff appreciates your willingness to stay here for the length of time required. We regret very much having to postpone the earlier session we had scheduled for until this morning, and we very much appreciate your forthrightness and candor. I think it's fair to state that we would like very much to hear from you in the future if your cooperation here or your testimony before the Subcommittee results in any adverse action against you in your capacity as Assistant Chief of the Office of Economics. Is there anything you would like to add to your statement at the present time?

A. No, other than the fact that I appreciate the opportunity of being of assistance in any way that you feel might help objectify the problems you are investigating.

Q. The time is now 7:45 P.M. for the record, and, Dr. Schwartz, because this is a preliminary subcommittee investigation at this time, because the identity of all interviewees is not yet fully determined, and because the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are respectfully requested *not* to request the substance of this interview with anyone other than your own personal attorney.

A. I will request your request.

Q. Thank you.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY STAFF INTERVIEW WITH JAMES TOURTELLOTTE, FPC

Let the record reflect that this interview is being recorded. Present are Charles Bangert, General Counsel; Bernard Nash, Assistant Counsel; Patricia Barrio, Special Staff Member; Mr. James Tourtellotte, of the Federal Power Commission.

Mr. Tourtellotte, since the nature of the conduct being investigated may amount to violations of one or more federal laws, we believe it only proper that you be advised of your rights. You have the right to remain silent, to refuse to answer any questions you feel may tend to incriminate you. Anything you do say can be used against you in any other proceeding. You have the right to have counsel of your choice with you during questioning, and the right to talk to him for advice before we ask you any questions and before you answer any questions. If you desire to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You will also have the right to stop answering at any time until you talk to a lawyer.

Let me hand you the form I was reading from and ask you to take as much time as you need to review it and make sure you understand it and tell us whether you agree to waive the rights you have in order to be interviewed, or whether you choose not to waive them.

T. I think I understand them as stated, and I would waive any rights I might have in this regard.

Q. The form, I think, has a place on it for your signature which would acquiesce in your waiving.

Q. Mr. Tourtellotte, we're going to ask you a series of questions, and as you know, we're conducting these interviews at the direction of the subcommittee because of the attempted destruction of certain documents collected for the Federal Power Commission. Those documents were previously requested by the Subcommittee and now are in possession of the Subcommittee pursuant to the Subcommittee subpoena. And we want you to understand that there's no basis of accusation or innuendo or prejudgment intended in any of the questions asked of you. The questions are only a means of eliciting information from all witnesses

and obtaining necessary background information in order to facilitate an evaluation of all the circumstances involved. Will you state your full name and address for the record, please?

A. My name is James R. Tourtellotte. I live at 4161 Elizabeth Lane in Annandale, Virginia. I am presently employed as trial attorney for the Federal Power Commission.

Q. I understand that you have a prepared statement, is that correct?

A. Yes, I do.

Q. Would you like to submit it for the record and initial it and we'll mark it "Tourtellotte Exhibit One."

Now, how long have you held the present position that you have in the Federal Power Commission?

A. I came to work originally July 1, 1970, with the Federal Power Commission, and was employed by them at that time as a supervisory trial attorney.

Q. And then you received a promotion, I take it?

A. Well, I received a grade promotion—ah, my work as a . . . along the lines that I am now doing and along the lines that I am now working in I started in about April, 1971. And I have performed that function ever since. What I do essentially is I head up a section of lawyers that is concerned with the corporate regulation side of electric regulation, securities, acquisitions, mergers, interlocking directorates, interconnections, imports and exports of power. I also have the responsibility for rendering advice to the other members of the Office of General Counsel and to the Commission on the National Environmental Policy Act and I'm also responsible for intergovernmental relations which is essentially a program of keeping tabs of what other agencies are doing that may affect the goals of our commission and of developing plans along the lines to promote the goals and policies of the commission. They also probably—I have responsibility for the Flood Control Act and also the matter of Antitrust recently became significant to the Commission with the advent of the Gulf States decision and most of the antitrust matters are handled in my section.

Q. What grade position do you presently hold?

A. GS-15.

Q. And what grade position did you receive when you first commenced employment in 1970.

A. I was 14. something, I don't remember what—14—4.

Q. Do I understand that your responsibilities are presently limited to the electric power side?

A. Well, my responsibilities would not be limited to the electric power side insofar as for instance the National Environmental Policy Act, which affected both sides. I, of course, had responsibility initially for R-405, which was both gas and electricity. I have done certain special projects that deal with gas as well—that is, legal research in the use of gas—but I primarily am an electric lawyer. I guess my previous experience was four and a half years with Grand River Dam Authority in Oklahoma, where I was their assistant general counsel for three years and general counsel for a year and a half.

Q. That was your employment immediately prior to coming to the Power Company?

A. Yes.

Q. What is the Grand River Dam Authority?

A. Well, the best way to describe it is it's a little TVA type of operation. It operates in northeastern Oklahoma. It was begun in the late 1930's as a Federal Works Project and since that time they've added a dam—Kerr (?) Dam—and also a pump works project and steam plant. They wholesale power to industries, to REA's, and to municipalities in northeastern Oklahoma primarily.

Q. Where were you employed prior to commencing work with the Dam Authority?

A. I was County attorney for the Payne County, Stillwater for two years.

Q. In Oklahoma?

A. Yes.

Q. How did you commence obtaining a job with the Federal Power Commission in 1970?

A. How did I commence obtaining? Well, I guess I decided in September of 1969 that I was at a dead end with the Grand River Dam Authority—that is, I had achieved as much of a position as I could ever achieve, I had learned as much as I wanted to learn, or I thought I needed to learn about the operation of a utility, and so my interest was to move on. I decided then to come to Washington

and interview for jobs, and so I came in September, being somewhat naive country lawyer, I came up for three days of interviews and discovered that I couldn't accomplish much in that time. I believe at that time I talked to EFAA and CAB and what else, and so I returned to Oklahoma and in February I made some appointments by letters with various agencies to see what openings they might have for me, and then I came up around the second or third of February and interviewed for about a week with eight or nine different agencies and I suppose because of the background that I had in utility work, the offer that I got from the Federal Power Commission was the best offer, because I had no predisposition to go towards the Federal Power Commission. As a matter of fact, I had a predisposition not to go towards it, but . . . ah, professional opportunities won out.

Q. Who interviewed you?

A. Well, I was typically interviewed by several of the assistants as I recall. I first saw Daniel Goldstein, he's the Assistant for Legislation; I saw Joe Hogg, who has since retired, but was in the electric side, and I saw Peter Schiff, who was then the solicitor of the Federal Power Commission. The first day I went, Mr. Gooch who was then General Counsel was tied up in some kind of a case or meeting or something and I could not see him and he left word asking that I return on Friday to see him late Friday, and I told him I would and I did. I met with Gooch on Friday about 5:30 in the afternoon, and it was an ordinary type of interview asking about background and so on. I provided my résumé and he told me that he would contact me—I don't remember when the contact was made, but he told me later on that he was informed somebody wanted me to work there, and I filled out 171 or whatever that horrible thing is and presented it. Then I terminated my position down there in June, in Oklahoma, and I moved to Washington. And I waited—the Civil Service Commission and their processing to come up with something, which eventually occurred thirty days after I got here.

Q. Do I understand that you stated you were hired by Mr. Gooch, who told you that someone wanted you to work there?

A. No, I don't know how I was hired.

Q. Who informed you that you would be employed by the Federal Power Commission?

A. I don't remember.

Q. What happened after you left the interview with Mr. Gooch? What was the next contact with the Federal Power Commission before you commenced employment?

A. Well, there was a period of time when there were other people who made offers or who contacted me. One was the Department of the Interior and they had a pretty good offer and it was one that I was considering. I don't recall who contacted me at Interior or who contacted me at FPC—I know that for a while I was evaluating whether to go to one or the other—it was mostly between Interior and the Federal Power Commission. There was also an offer that I had from the Securities and Exchange Commission, but it was a lesser offer and—but of course the opportunity is a different sort of an opportunity so I was weighing that as well, and frankly it's all so jumbled up I don't really remember when anybody could say an offer was made, but I became aware at some point in time that I was to go to work, or I was wanted at the Federal Power Commission. I do know that there were a lot of phone calls that I made from time to time to determine when I was supposed to be up here and what I was supposed to do. And I called particularly after I'd already resigned from my other position. I was pretty anxious to find out what was going on, and the long and the short of it is I—I don't guess that's the right way to put it. I actually moved up here, I don't think I had a position when I moved up here to Washington and as a matter of fact, I'm quite certain that I didn't but I was reasonably certain that I was going to get one, and I suppose that whatever interworkings there were in the Civil Service Commission and the Federal Power Commission, that all that business was going on at the time I was up here because I even made daily calls after I got up here to see what was going to happen. I was reassured from time to time that things were working.

Q. You indicated that you were interviewed by Mr. Gooch on Friday and he said that you would be hearing from the Federal Power Commission and he then indicated that you were advised by Mr. Gooch that you would be employed by the FPC because someone wanted you to work there. Do you wish to change that statement?

A. Did I say Mr. Gooch advised me?

Q. Yes.

A. I don't know whether it was Mr. Gooch advised me or not. I just don't recall the way of being advised that I was actually going to go to work there. That someone wanted me to go to work, I think Mr. Gooch did say he wanted me to go to work.

Q. When did Mr. Gooch say that?

A. I don't know.

Q. Was it at the Friday interview?

A. No, not that I recall.

Q. Was it subsequent?

A. I'm sure it was.

Q. Was it by personal contact, by letter or by phone?

A. I don't know.

Q. Did you have any

A. I don't have any letters from him.

Q. Did you have any personal contacts with Mr. Gooch prior to the commencement of your employment after that Friday interview?

A. Any personal contacts? You mean, did I see him personally?

Q. Yes.

A. No. I didn't see him until I came up here in June and I got into town about June 6 and I came the next work day, whatever it was, to see him.

Q. Then I take it, the advice to you from Mr. Gooch had to be by telephone, is that right?

A. Right. The advice that—well, I can't be certain now. I received letters—I know I received letters from the Department of the Interior. I may have received letters from the Federal Power Commission too. I don't know.

Q. Did you ever find out *who* wanted you to work at the Federal Power Commission?

A. I hope all of them did (laughs). Ordinarily what happens in the hiring process over there is the person who interviews goes around the various assistant general counsels and they make recommendations. I rather believe that I received favorable recommendations from Pete Schiff and from Danny Goldstein and from Joe Hoggs, based on subsequent contact that I had with them. I certainly hope that they were favorable.

Q. And when you endeavoured to obtain employment with the Federal Power Commission, do you recall which persons you had recommend you for the position you were seeking?

A. The names of the people?

Q. Yes.

A. I think on my reference list I had District Judge John Adams, Associate Judge Phil Whistler and bank president Mr. E. N. Price. I may have also had Judge Robert Hurt of Stillwater, I'm not certain, I don't recall. Those would be ordinary references, I guess, at that time.

Q. In pursuing employment with the Federal Power Commission, to your knowledge, did any persons outside the Federal Power Commission make any contact on your behalf with governmental officials designed to facilitate your obtaining employment?

A. No. I didn't have any that I know of. If anybody outside the Federal Power Commission contacted anybody, they certainly didn't tell me and I certainly didn't ask anybody.

Q. Before your employment, did you have any contact with any commissioner from the Federal Power Commission?

A. No.

Q. Within the Office of General Counsel, can you describe how you fit in with regard to what the line relationships might be with other people in the office?

A. Well, of course, I can describe what my section does, all right?

Q. Yes.

A. The Office of General Counsel has a general counsel, they have a deputy general counsel, and they have an assistant for legislation, an assistant for pipeline certification, an assistant for gas producer rates. They have a rate section which is, which has to do with both gas and electric rates, and they have a hydro section other than the section that I'm with. Now, all of those people I believe are 16. My section is on a par, at least that's the way I understand it. There are six sections and we're all on a par. I go to the pre-agenda meetings with the general counsel, I advise him on the areas of responsibility that I have. I also advise the Commission in this area, so my lines, I guess, of authority, and my responsibilities are co-equal with theirs.

Q. Who do you report to?

A. Who do I report to? To the general counsel.

Q. And when you commenced employment in 1970, who did you report to?

A. I reported to, well first I reported—to two people really. At that time, the electric side was only one section. There was one assistant general counsel who handled everything electric. That included electric rates, it include hydro and everything that I did was Parts II and III of the Federal Power Act. Now, since that time, in about June or July of '71, the rates, the responsibility for rates was taken from the electric operations and combined with the rate sections for gas, so the assistant general counsel for gas rates then became the assistant general counsel for rates. The hydro, which is Part I of the Federal Power Act, was separated from Parts II and III, which is corporate regulation, primarily, and the assistant general counsel's position, which existed for the overall electric operation was then given to the fellow who was in charge of hydro, and then I'm over there as a separate entity. I actually have no title as assistant general counsel. I—my title is simply "trial attorney." As a matter of fact, when I came to work, I was a supervisory trial attorney, and Civil Service Commission, as I understand it, determined that there were too many people with the title "supervisory trial attorney" so I subsequently became a "trial attorney" and that's what I am now. I seem to be regressing. But, at any rate, getting back to your question, of who I answer to, you have to understand that at the time I came there, this section was a larger section, and the gentleman who was the assistant general counsel was named Leonard Easily, and he had an assistant. His assistant was Si Woolsey, and one part of it for the rates part, and there was another assistant he had who was Joe Hogg for the hydro part. Now because the Grand River Dam Authority was a hydro operation, I was supposed to be an expert in that particular type of operation, and I suppose as experts go, I probably was. So I answered to Joe Hogg on hydro matters. I also took on some rate cases, so I answered to Si Woolsey on rate cases. But, the overall supervisory responsibility was to Leonard Easily, and I answered to Leonard Easily *in toto*. He was my primary supervisor. Now, of course, I understand, as I think any other organization, that there are times when lines of authority reach right down through all this and you answer directly to someone else, and there were times for instance when Mr. Gooch asked me to do certain things, and whenever he asked me to do something, I did it. Whenever—if the chairman asked me to do anything, I would do it. And whenever anybody else—because almost everybody had more authority than I did—asked me to do anything, I did it. My real immediate responsibilities were those people who had the responsibility of supervising me at that time, and as time wore on, I actually became more of a supervisor, and I answered then more directly to Easily and not to anyone else. And just before Easily retired, I began to assume the duties of Mr. Easily, and he sort of helped me along with the understanding that somebody was going to have to do it when he left. That's what I did do when he left with the exception of the fact that the organization that he headed was actually trifurcated.

Q. In the course of your work, how frequently did you relate directly to the general counsel?

A. How frequently did I relate?

Q. Yes, how frequently did you do something directly for him or report directly to him respecting Power Commission matters? Frequently or infrequently? Twice a year or twice a week?

A. I would say probably, well the first time, as I recall, that I did anything directly for him was R-405. I don't recall doing anything for him—I may have, I don't know. But R-405 was the first thing and that was some time, I think, in September or October. Now, we may have—there may have been something else as well, but I know the first two months I was here, I saw him not very much at all. And then after R-405 came up, I began to see him more regularly and I did some other things, special projects that he wanted done from time to time, research things, and then I saw him more regularly. But even at that, I would say there were times, say after I'd been there a year, there were times when I might not see him for two weeks, and then there were times when I spent every waking hour, almost, working in conjunction with him on something that was very important or very important to someone at the time. I think probably Mr. Gooch and I developed a working relationship as much as for any other reasons, because I work very quickly, and Mr. Gooch liked to work quickly.

Q. Would you say you had a good relationship with him?

A. Yes, I think so. I mean, I feel that it sounds immodest when I say this, but I think that the work that I did pleased him very much and he had someone in

me that he could rely on to get the work done when it *had* to be done, and Gooch' is a very energetic person and likes to work fast and get things accomplished, and I guess was able to do what he wanted done most of the time any time that he wanted it done, so we developed a good working relationship.

Q. Do you see Mr. Gooch now that he's left the Power Commission?

A. No, I have actually seen Gooch only three times since he left the Power Commission. One was for his—he came back for one of these luncheons that they have, and the other two times were at luncheons for other people who were leaving, and of those three times, I spoke to him twice. I didn't talk with him. Most of our discussions that we had pertained to work, even though I knew him socially. I mean, I came to know him socially, but whatever we discussed always pertained to work.

Q. What other major projects did you handle in the Federal Power Commission which allowed you to work closely with Mr. Gooch?

A. Well, I think probably trying to implement the National Environmental Policy Act brought me into contact with him a great deal. Also in my capacity with the Intergovernmental Relations thing, I was primarily responsible for the Economic Stabilization Program, and of course when that program began, it kind of created, whether it was a lot of confusion initially because of the fact that it was a new program. So there was a lot of things to do in there. I did that. We also have had contacts with the Treaty on Governmental relations thing with in providing witnesses at their hearings. I had some contact with him on those matters although that was not as significant. As far as really large—yeah, large major projects like R-405—I don't think there were any of any particular consequence. There were some cases that we worked on, like interconnection cases—the Cleveland Electric Illuminated Case was a very important case.

Q. Did you work on the El Paso brief to the United States District Court?

A. No.

Q. Did you work on a merger case involving two combination companies that was subsequently dropped by the companies?

A. Which ones?

Q. Two Oklahoma companies?

A. Two Oklahoma companies? (surprise) I didn't work on those. If there was a merger of Oklahoma companies, I would have remembered it. The only Oklahoma companies were Public Service of Oklahoma and Oklahoma Gas and Electric. If they had any plans to merge, this is the first I knew of it.

Q. Did you work on any merger case which the record was closed, briefs were filed, and then the Commission subsequently ordered the hearing record reopened for additional testimony because of the request of the Attorney General of the State involved?

A. Oh, that was the Iowa case. That was an Iowa case involved.

Q. Yes.

A. I did not do that, no. A gentleman who worked for me did that at one—I mean he worked for me before he left, but I don't recall whether he was working for me at the time that he was doing that—he may have—his name was John Yufuss, and he's now general counsel of the Iowa Commerce Commission.

Q. In addition to the compensation you receive from the Federal Power Commission, do you have any other source of income such as stocks or bond holdings?

A. Not stocks or bonds, no.

Q. Do you have any other source of income?

A. I have a wife who teaches. I do have some real estate income but it's family dwelling type stuff—apartments.

Q. In the Washington area?

A. No, back in Oklahoma. Mostly it's family owned property. My mother passed away seven or 8 years ago.

Q. Do you own any stocks or bonds or do you have any income from oil or gas or electric power companies?

A. No.

Q. Do you have any vested or unvested pension rights, insurance plans, retirement benefits or other financial arrangements arising out of previous employment or from sources other than your own personal finances?

A. No.

Q. Do you have any relatives working in or for or representing in any capacity the oil or gas companies?

A. When you say, any relatives, I have to think, because I think I have a cousin who's a safety engineer for Phillips Petroleum. I'm not sure. I haven't

seen him for 15 years. He could or could not be still in that position, I don't know. I have a brother who is an attorney in Oklahoma City, but I don't know who he represents. I don't think he represents the oil companies. He's really primarily in the real estate business more so than in the private practice of law, and I do know that his practice a few years ago was heavily involved in real estate, was primarily an insurance practice, personal injury stuff. So, I don't think I have any relatives—I've got a lot of relatives (laughs).

Q. Did you ever receive any honorariums, gratuities, transportation expenses, gifts, or any other thing of value, more than \$10 in value from oil and gas companies, officials, or representatives?

A. No.

Q. Since attaining employment with the Federal Power Commission, have you ever engaged in any conversations, however casual they might have been, respecting future employment?

A. Any conversations? You mean with whom?

Q. With anybody?

A. Well, as a matter of fact, yes. I have had one such conversation with the Atomic Energy Commission in the past two or three weeks. That's the only conversation. I haven't discussed even casually a conversation with anyone in private practice nor have I discussed it with any representative of a company. I'm not really interested in it at this point.

Q. Are you a member of the American Gas Association?

A. No. (laughs)

Q. Prior to your appearing here this morning, have you discussed the projected appearance here with anyone else?

A. I told our executive director that you had requested me to appear here today, and that I intended to come up and tell you exactly what I told him, and that is essentially what is in this statement that I offered.

Q. When did you have this discussion with Mr. Maxson?

A. You mean, it includes this statement? Oh, you mean the statement yesterday?

Q. Let me back up. You indicated that prior to your appearance here you indicated to Mr. Maxson that you had been requested to appear here.

A. Right.

Q. When did you have that discussion with Mr. Maxson?

A. It was—I wasn't looking at my watch—it was yesterday afternoon, which would have been Thursday, the 19th of July, and it was somewhere around 3 o'clock. I just happened to see him in the hallway and I told him that I had been called and that I was going to give you the statement which is exactly the same statement that I made to him about my involvement with R-405.

Q. This is a statement which you had previously furnished to Mr. Maxson, you say?

A. Ah, I had not—yes, yes—in the text of this, I had given to Mr. Maxson.

Q. Prior to yesterday?

A. Yes.

Q. When did you prepare the statement?

A. I don't recall. Maxson asked me about it back when all this thing began. I don't recall the date, but he wanted to talk to me about it and so, he was charged with investigating it in the Federal Power Commission, and so I got out whenever he asked me about it, because frankly I tried to forget as much as I can, so that I can do what I'm doing today with greater concentration, so I got the central files and went through the central files to refresh my recollection of what occurred, and I had no file of my own on this, and after doing so I sat down and dictated this thing, and had it retyped three or four times as is the custom in Civil Service, and came up with this statement as what actually happened, and I provided him with a copy of a statement which is in substance the same thing I'm providing you—not only substance, it's word for word.

Q. Is it a xeroxed copy of what you handed in?

A. No. I had it retyped for you, but it's the same thing and word for word, and he asked me some other questions and that was all there was to that.

Q. He asked you questions when, yesterday?

A. Oh, no, it was back when he was investigating.

Q. Well, what was the substance of the discussion you had yesterday?

A. Well, the substance—what was that? He said, "Well, I was called by the subcommittee on Antitrust. I'm supposed to be there tomorrow morning at 10 o'clock to testify," and he said, "Oh, yeah,"—he's not a very talkative person—I

don't know if you've met him or not, but he's rather quiet. And, I said, "Well I intend to go up there and give them essentially the same statement I gave you, and to answer whatever questions they have. I can't imagine they're going to ask me very much."

And he said, "Well, you'll be surprised how long it could take. They can ask a lot of questions that go far afield, and they may ask you questions that don't have any particular bearing, or you don't think have any particular bearing on R-405."

And I said, "Well, OK." And that was about it.

Q. Did he suggest to you at all the sense in which you should provide information or not provide information?

A. No. Neither he nor anyone else has ever suggested what I should tell you, and if they had, I probably—I wouldn't withhold any information anyway.

Q. Did he at all indicate whether he had been interviewed here?

A. No.

Q. Did he at all suggest to you that there were any type of questions that might be asked?

A. No. The way I recounted the conversation is as close to being 100 percent accurate as I can remember it, and there was no other mention of anything.

Q. Did you discuss your anticipated appearance here with anyone else besides Mr. Maxson?

A. Not discuss it, no. I told a couple people—I told my secretary where I was going to be, and I think I told my wife last night that I was going to have to be here, and maybe a couple of other people. But I don't discuss matters of this nature with anybody.

Q. Prior to yesterday, did you discuss with anybody the possibility of appearing here?

A. No.

Q. Did anyone who had been here indicate to you that they had been here for an interview?

A. No. No one has indicated. Let me back up on your other question. I think I must have misunderstood. You asked me if I discussed with anybody the possibility of my being called.

Q. That's right. Before you were called?

A. Right. I did not discuss it, I was informed that I *might* be, but I didn't discuss it. I mean, when you say "discuss," I think in terms of sitting down and saying, "Well, OK, you're going to appear before the Subcommittee. What are you going to do, do you think you ought to do this, or you ought to do that, A, B, or C?" And I didn't have any conversation like that. I was informed that I might be called after—some time after I read in the newspaper that there was going to be an investigation like this. Someone told me that I *might* be, and I can't recall right offhand who told me that I might be—it might have been either Webb Maxson, or Leo Forquer.

Q. Why did they indicate to you that you might be called?

A. Well, why they would inform me was probably subjective on their part. I suppose it's to let me know that everybody was aware of the fact that I might be called and that we had agreed to cooperate and get whatever information we had, so . . . I don't in my own mind. I can't really separate out the report in the newspaper from what someone may have said to me about appearing here. I know it wasn't very extensive because I think it was generally felt that I didn't have much to say anyway. I really wasn't involved at all with what was going on with the most immediate problems. I was only involved to the extent that I was in charge of the initial studies of R-405 and that the gentleman who was involved with the tearing up of the documents indicated that he was following a precedent that was set by me, and in writing, which precedent was in fact never set, and it certainly wasn't in writing, and it was not anything that we ever did before, at least that I did.

Q. Are you aware of any oral or written communication respecting the reporting to anyone by those interviewed here—subsequent to the interview, are you aware of any indication of a responsibility or request to report to anyone else relating to the substance of the interview?

A. Me? Am I supposed to report back?

Q. Yes.

A. No one has suggested that I do so.

Q. And with respect to anyone else interviewed here, are you aware of any communication indicating that they are to report back?

A. I don't even know who, if anyone, has been interviewed.

Q. Now, you were requested to bring with you today all writings of any nature whatsoever, including diaries, logs, records, telephone conversations, referring or relating to use or disposition of the documents involved in the attempted destruction, is that correct?

A. Yes.

Q. Are you prepared to comply with that request?

A. (laughs) It's very easy to comply with it, because I have no such documents or writings, of any sort.

Q. How did you go about determining that you didn't have any such documents?

A. Well, because—I went about determining it by knowing my own state of mind, knowing from my own recollection that I have never encountered such documents. I'm not—I've not been involved in any phase of R-405 since the initial phase and, in the initial phase, this was treated just the way that I described it in the statement, and it did not call for the destruction of any document.

Q. Did you search your files to see if any documents relating to R-405 existed?

A. Ah . . . any documents updating? If they were in my files? . . . The only thing that I would have in my files updating R-405 would be those that are in the public files, because I would get them as a matter of distribution when they are put in the public files. But I wouldn't have anything to do with that, because I, for all intents and purposes, just don't have anything to do with that any more and I—what they normally do, is that, when they come out with new developments in a proceeding of this nature, they take whatever documents there are and give every attorney in the OGC a copy of it, and my usual handling of matters that I'm not involved with is to file them in the circular file, and—because, actually copies of these things are kept in central files and since we are short of file cabinets, I don't keep anything that I don't have to keep.

Q. Did you discuss with anyone else the request made to bring documents with you?

A. You mean the request that Miss Barrio made?

Q. Yes.

A. No.

Q. Were you advised orally in writing by anyone whether there are any limitations on the extent to which you can supply documents to the subcommittee?

A. No.

Q. Did you receive a memorandum from Mr. Forquer or Mr. Maxson limiting what Federal Power Commission files can be produced for the subcommittee?

A. No.

Q. Were you aware of any such memorandum?

A. No.

Q. Were you at all involved in the collection of information pursuant to AR69-4?

A. No.

Q. Were you at all involved in collection of information pursuant to R-405 original?

A. Yes.

Q. Were you at all involved in the collection of information pursuant to R-405 updated?

A. No.

Q. Were you at all involved in the collection of information pursuant to the Natural Gas Reserves Study?

A. No.

Q. Were you at all involved in the decision of the Federal Power Commission prior to the issuance of the subcommittee subpoena not to produce certain documents to the subcommittee?

A. No.

Q. Were you at all involved in the communications to the Federal Trade Commission or any recommendations within the Federal Power Commission respecting contacts with the Federal Trade Commission relating to the Federal Trade Commission investigation of the accuracy of the Natural Gas Reserves reported by the American Gas Association?

A. No.

Q. Do you have any knowledge of any nature whatsoever respecting the positions and viewpoints of the Federal Power Commission respecting the HEA investigation for the Federal Trade Commission?

A. The HEA—what is that?

Q. The investigation of the American Gas Association reserve reports by the Trade Commission?

A. Well in the words of a former statesman of mine, I only know what I read in the papers. You ask me if I have any information at all, and the only information I have on it is what I read in the papers, and I know that the relationship between the two agencies is probably strained.

Q. Do you have any information respecting whether any employee or member of the Federal Power Commission directly or indirectly communicated to the Federal Trade Commission the desire that the investigation of the American Gas Association reserve reports should not proceed?

A. No—as I say, other than what I read in the papers, and I don't know if that's true or not.

Q. What did you read in the papers about that?

A. Well, the newspapers said that *our* general counsel called *their* general counsel—that's what I recall in the newspaper.

Q. Do you have any knowledge about that, aside from what you read in the newspaper?

A. No. I wasn't there, if and when it occurred, I was not present and Mr. Gooch never discussed it with me—if in fact it occurred. I don't know whether it occurred or not.

Q. Are you aware of any ground rules established in the Federal Power Commission concerning the manner and extent to which FPC personnel may communicate with FTC personnel concerning FTC's investigation in the natural gas field?

A. No.

Q. Are you aware of any instructions that FPC employees cannot meet and discuss this matter with FTC, except in the presence of a member of the Office of General Counsel?

A. No one has informed me of that.

Q. Have you ever been, directly or indirectly advised, respecting ground rules, for the destruction of FPC documents?

A. Have I ever?

Q. Well, since you commenced employment?

A. Well, let me say, I've never received any instruction to destroy anything, nor have I received any instructions of how something might be destroyed if it were *going* to be destroyed.

Q. Were you every told *not* to destroy anything?

A. Yes.

Q. When were you told not to destroy anything?

A. There was a memo that came out from the Chairman since this all occurred.

Q. Saying what?

A. I don't really recall the exact wording of it, but I know in essence it said don't destroy documents, and—I suppose if I were to get into a situation where I were accumulating primary information that I would not destroy it. I acquired some primary information, in a way of speaking, before, and it wasn't—I did not cause it—to be destroyed.

Q. You mean the R-405?

A. R-405. I have a genuine concern—I had a genuine concern at that time about the fact that this was going to take up space in some warehouse that the Government had to pay so much a square foot for forever, but I figured that that was some problem for an archivist somewhere, so when we took the information that we had, be it ever so slight, on the initial R-405, and put it in the safe, I just forgot it.

Q. Did the substance of the memorandum from the Chairman which you indicate you believed receiving subsequent to the disclosure of the attempted destruction by Mr. Mangan indicate that no documents would be destroyed save on the express approval of the Chairman?

A. I'm not certain whether it had that wording in there or not "upon express approval of the Chairman." I know in my instance that, as I say, I don't think I would destroy anything to begin with, but if I were of a mind that I wanted to get rid of it, in some way, I certainly would bring the matter up with the commission. I can't for the life of me imagine that in present circumstances I would ever want to destroy anything.

Q. Prior to the public disclosures of the attempted destruction by Mr. Mangan, were you aware of any general guidelines by the Federal Power Commission relating to destruction of documents?

A. No.

Q. Prior to the same public disclosure I just referred to, and specifically on or about the time that you were made one of the responsible officials respecting R-405 original, were you advised at all by anyone as to Federal Power Commission rules respecting destruction of documents?

A. I'm not certain I understand that question because I got lost somewhere in there. You're asking me if back when I was working on R-405 originally did I know anything about destruction of documents or did I discuss that with anybody?

Q. When you were named as a responsible official, did anyone indicate to you anything about destruction of material you were to receive from the companies?

A. No. No one indicated anything, but I discussed it with the people that I had working with me and for me. I was supposed to be primarily responsible, and John Williams and Paul Brady, who I think have since become administrative law judges, were supposed to be working under my supervision. And we discussed the problem of security of documents. We did not—I think I may have expressed concern at that time about the fact that we had to keep these documents that we didn't—it seemed kind of foolish to just put them back somewhere and keep them forever, and ah, but we felt that under the orders the Commission had written, it said that the materials would be kept confidential, and we interpreted it literally to mean "kept" and we decided we would, number one, we would gather the information in such a way as to not put ourselves in jeopardy of violating the Commission's rule, that is, making the information publicly known. That was one thing, and the second thing was whatever information we gathered, we decided we would put away under lock and key, and someone could dig it out in future times and ask what it is and do what they want with it. But we were really concerned—I was concerned about some sections of the Natural Gas Act and also the Federal Power Act, which, to the best of my recollection says that if you do not—anyone who violates an order of the Commission may be subject to fine or imprisonment or both, and I because of the very sensitive nature of the kind of information that we were gathering, there was always a possibility that people who were interested in industrial spying might attempt to get at the information, so we wanted to do everything we could to keep our—to keep that from happening, and if it should occur, to have it arranged in such a way that it wouldn't mean anything to them, but it still would suit our purpose. And that's what we did.

Q. Why did the Office of General Counsel collect information for R-405 original, whereas the Bureau of Natural Gas collected the information for R-405 updated?

A. I don't know. I asked myself the same question when it happened, but I didn't ask anybody else.

Q. Were you the person responsible for the collection of information in R-405 original?

A. Ah . . . yes, yes I was. I think that at that time I was held primarily responsible. The order lists both my name, John Williams and Paul Brady.

Q. Did Messrs. Williams and Brady take orders from you in the actual collection of information?

A. Yes.

Q. Did you make all decisions respecting manner of collection and method of use by yourself or did you discuss such matters with anyone else?

A. We consulted between the three of us—John Williams and Brady and I consulted on how we would do that.

Q. Is your testimony that you consulted with no one else excepting Mr. Williams and Mr. Brady on how you would go about collecting the information?

A. Well, as I was just going to say, after we had done that, I discussed it with Gooch. And . . . I would suppose I don't recall exactly, but I'm certain it came up at a Commission meeting, so that it was discussed with the entire Commission and all of the staff in attendance to the particular meeting or meetings where it came up.

Q. You were responsible for collecting the information. Mr. Gooch of course, as general counsel and your superior, certainly would in certain regards supervise. In regard to the collection of the information in R-405, did he have final say over decisions you would make, or could you do what you wanted, were you free to disagree?

A. Well, of course, we had the final decision over everything I said. As it turned out, what I recall, what I know, is we devised the system for collection . . .

Q. Who's "we"?

A. Brady and Williams and I . . . and I took it to Gooch, and Gooch liked it, and I don't believe he made any changes.

Q. Before you took the approach to collection to Mr. Gooch, did you discuss with him possible alternative approaches, or did you discuss with him the approach you were considering devising, which you ultimately devised?

A. No, I didn't discuss that with him.

Q. Did you indicate it to him?

A. I doubt it. My usual method of operation is when someone gives me a job to do, I figure out how it's going to be done, unless they give me some specific instruction right then, I just retire and figure out how it's to be done, and I do it. I come up—if it's a matter of establishing procedures, I establish procedures and take it to him for a yes or no. And that's the way I usually worked with Gooch, and . . . I rather believe that that's what occurred in this case. I don't recall having any lengthy discussions with him on any vitals about how it should be done or whether I was doing the right thing or the wrong thing. The way I recall it is that what I came up with, he bought.

Q. To the best of your recollection, he had no prior indication about how you were going to proceed before you presented the specific procedure is that right?

A. Well, as I recall it, I don't think he—no—I don't think he knew. He may have known—if he had information as to how we were proceeding, he would have gotten the information from Brady or Williams.

Q. Now, you indicated that this method of collection *may* have also been discussed with the Commission, is that right?

A. Oh, certainly . . . before we sent the questionnaire out, it seems to me that we took it to the Commission for their approval, to see if it was all right to collect the information in this way.

Q. I take it you received approval?

A. Yes (laughs)

Q. Do you recall any discussion with the Commission concerning whether the Federal Power Commission should or should not receive or retain the actual responses from the companies?

A. Do I recall discussion between myself and the Commissioners?

Q. Between anybody at the meeting or between the Commissioners themselves when they were—you indicated they were advised as to how you were going to proceed and I want to know whether anyone brought up the question at the Commission table or anyplace else as to whether the Power Commission was to receive or retain the questionnaires and the answers from the companies.

A. As I recall that, it was in another situation where I presented this to the Commission—either I presented it or Mr. Gooch presented my position, which included the fact that we were not going to get individual company information on company sheets and our reasons for doing so, and I don't recall anybody arguing with that position.

Q. Do you recall any discussion about the merits of doing it that way versus the merits or the reason why the Commission *should* receive specific answers from companies and retain those answers.

A. No, I don't recall any conversation like that at the Commission meeting itself.

Q. Do you recall *any* conversation along those lines other than the Commission, where some staff official of the Federal Power Commission raised the question as to whether the Power Commission should receive it the way it ultimately did, or whether the Power Commission should get specific answers on a sheet of paper from each company and retain those answers?

A. The only conversations that came up in that regard were the conversations between Mr. Williams and Mr. Brady and myself. I don't recall discussing that with anybody else, as to the merits of whether it should be one way or the other. We made that determination among ourselves as I recall and then I took it to Gooch, and Gooch, as I say, accepted that—the explanation that we had for doing it that way and he did not suggest to us that we should instead go ahead and get the information from individual companies on each sheet, and so on, in the manner you suggest.

Q. I understand that you didn't suggest it. Now, can you tell me whether that matter was at all raised with Mr. Gooch?

A. It wasn't raised in the sense that someone consulted with him. It may have been raised in the sense that I told him that this was the way we thought it should be done. He didn't take issue with that.

Q. Can you relate for the record the substance of Mr. Gooch's statements as to why he believed in an appropriate fashion?

A. I don't know that he ever told me why. He believed that we were proceeding correctly. He simply indicated that he was in agreement with the way we were going about it.

Q. And did the Commission ever indicate as to why it believed that this was an appropriate method to use?

A. I don't recall what the Commission might have said in this regard.

Q. As I understand your statement, then, apart from yourself, Mr. Brady, and Mr. Williams, no other point in time did you engage or did you hear any discussion from anyone else concerning whether the Commission should perceive the answers from the companies and retain the answers, is that right?

A. Receive the written responses which were designated to be from a given company? In other words that it should be done in the manner that they did it in the second phase? I don't recall any conversations with anybody like that. I don't recall any other conversations.

Q. Now, with respect to the discussions and conversations held between yourself and Mr. Williams and Mr. Brady, can you recite precisely as possible in chronological order, the substance of the discussions leading up to the decision to proceed in the manner in which you did?

A. Well, I just don't think I could give a very meaningful answer to that, because that was two years ago. I don't really remember it.

Q. OK. Well, let's try it this way. Do you recall whether any discussions took place between yourself or Mr. Williams and Mr. Brady concerning whether the Commission had a responsibility to receive answers from companies that replied to the questionnaires indicating who the company was, retaining the individual company response?

A. I don't recall any specific conversation on any specific date.

Q. Do you recall any general conversation on a date you might not be able to remember along those lines?

A. No, I don't recall the conversations—we may be having a problem in semantics, I don't know. But when you ask me if I recall the conversation, I would respond, "I do remember the conversation" the way I remembered the conversation with Webb Maxson yesterday, if I in fact remembered something like that, but to say that I remember a conversation that took place two years ago, my memory is not that clear about when it took place or where it took place. Some times we were in my office, some time we were in Brady's office, some time we were in the hallway, sometime we were—we could have been in any number of places, and this was a rather large undertaking at the time and we spent a lot of time on it, so I really don't remember.

Q. Did Mr. Williams or Mr. Brady suggest that the method to be used in R-405 original should include receiving identifiable company responses and retaining them?

A. No, I don't recall either one suggesting that.

Q. Did Mr. Williams or Mr. Brady suggest that the method of receiving should be along the lines ultimately used in R-405 originally?

A. What were you saying?

Q. Let me rephrase that. I understand the procedure used, and I'd like to know whether the procedure was originally suggested by yourself, by Mr. Williams, or by Mr. Brady?

A. I'm not certain. I'm not certain how it evolved. It may have been. It may have been a suggestion of Williams. I don't believe it was suggested by Brady. I don't believe that Brady—as I recall, Brady didn't have an awful lot to do with the actual devising of procedures and techniques. He did most of—most of his work was done on the actual collection of information.

Q. Can you recall whether your idea was originally proposed by yourself or by Mr. Williams?

A. No, I can't recall.

Q. Was the approach you used utilized in AR-69-1?

A. It could be. It could be. Frankly, I'm not familiar with the 69-1, but Mr. Williams, I believe, had worked on that, and it could be, if there's a similarity between the two, it could be because Mr. Williams worked on that, but as I recall, we asked the Bureau of Natural Gas to provide us with a form that broke down the areas, and they ultimately provided us with this form, as we sent it out—I sent it out in a letter somewhere in November, I guess it was November 20th, 1970, and I'm not sure where the Bureau of Natural Gas got it—whether they got it—it was an adaptation of AR-69-1 or something, you know. I frankly did not—was not familiar with 69-1, and I'm not really familiar with it now.

Q. Before the procedure ultimately utilized was adopted, were there any discussions held with any of the companies ultimately providing information to the Federal Power Commission respecting how they would prefer to proceed?

A. Not that I know of. You're asking me if before we put out 405, if we called some gas company and ask them what they thought about this?

Q. No, after 405 was put out, but before you devised the methodology for collecting the information, whether consultation occurred with oil or gas companies?

A. None that I know of.

Q. Based upon your work at the Federal Power Commission, you have a general knowledge about the Federal Power Commission, did you devise the methodology used because you knew that would be the method preferred by the Commission or by the general counsel rather than getting specific information from identified companies and retaining that information?

A. No, I don't think I had that kind of concern then. My real concern was the problem of getting information from companies on an identifiable basis that way, and then running the risk that someone may steal it, and then thereby putting us into a very bad position—when I say "us," I mean putting Mr. Williams and Mr. Brady and I into a very bad position. That was my primary concern.

Q. Where are the work papers used by yourself, Mr. Williams and Mr. Brady in collecting that information?

A. I don't know where they are right now.

Q. Have they been destroyed?

A. The last I knew of them, Mr. Williams told me that they'd been placed in a safe in the Office of Administrative Operations, and what happened to them after that I don't know.

Q. You read the allegation of Mr. Mangen in the newspaper that the material you collected had been destroyed. You knew that the Subcommittee was investigating that charge. Is it correct that you made *no* inquiries during the past days, weeks, or months to find out whether the material you collected in the work papers still existed?

A. No, that isn't true. *I* made an inquiry.

Q. Of whom did you inquire?

A. Peter Hryskanich in the Office of Administrative Operations, and I asked him if he knew where the safe was that had this material in it, and he indicated that he did not know. And so, like I said, I do not know what happened to them because Hryskanich doesn't know.

Q. You made no further effort to find out, is that right?

A. That's correct. Actually, it's not my problem right now.

Q. Whose problem is it?

A. Well, at the time that this was going on, Mr. Maxson was investigating it and I—my personal feeling is that my responsibility ended, when in an official capacity I deposited the papers in an officially safe place and I don't have any responsibility to stand guard over that safe or to do anything else with it. As far as I'm concerned, the safe can hold the papers and be there forever.

Q. OAO—is that the section in which Mr. Vivian is employed?

A. You know, the name "Vivian" is familiar, but I'm not sure that it is.

Q. He's the security officer that tried to burn the documents several times but didn't succeed.

A. He must have had lighter fluid (laughs). I don't know whether Vivian works in OAO or not. OAO is the office of Administrative Operations, and Administrative Operations is kind of the "catch-all", whether the security officer is detailed to the OAO or to the executive director's office or to somebody else, I don't really know.

Q. Tell me in as much detail as you can what you did after November 4th when it was specified that information would be held on a confidential basis—November 4, 1970, R-405 original.

A. Tell you in as much detail as I can what happened?

Q. Yes, what you did to implement R-405?

A. Well, the—I really don't think I have anything that is not in the statement that I've given you or that I've already told you—I don't know whether it would be worthwhile going over it again.

Q. Let's try it this way, then. On November 4th, R-405 was issued, is that right? November 4, 1970?

On November 20, you sent the letter with the questionnaire attached to 75 major gas producers, is that right?

A. Right.

Q. Is it also correct that prior to November 20th, you had no oral or written communication from any gas producers concerning a method for implementing R-405?

A. Right.

Q. And is it correct that you devised a method for implementing R-405 between November 4th and November 20th?

A. Correct.

Q. Do you know whether any communication was had between November 4th and November 20th between the gas or oil producing companies and Mr. Gooch concerning the method for implementing R-405?

A. No.

Q. When you sent your letter out on November 20th, 1970, did any companies then communicate with you in writing or by telephone to discuss method for implementing R-405?

A. I don't recall any communicating with me directly. When the Commission put out its order on November 4, a great number of companies, both electric and gas, filed comments with Commission, and all of those comments are in the files, in the central files that pertain to R-405. I received no other communication besides those.

Q. Did any of those other communications indicate that the material information supplied should not be received in identifiable form and retained by the Federal Power Commission?

A. Well, as I recall—I haven't reviewed that file. Most of the comments that came in objected to the fact that we were getting the information at all. It was burdensome on the industry and that it was unnecessary, and that even if we got the information we couldn't do anything with it, and I don't recall any comments which suggested that we proceed in the manner that we did proceed.

Q. In all instances, did the companies supply the data as you outlined on page two of your statement which you marked Exhibit One?

A. In all instances? Well, to the best of my recollection they all did. There may have been one company—I recall discussing with Mr. Williams, at one point in time, there was one company that was not responding and I don't know whether that company eventually did respond or not, but I can only recall one holdout at one point in time.

Q. Who was the holdout?

A. I don't recall—some relatively very small operation among the 75.

Q. Now in page two, point number one states that "A company brought the information to staff"—does that the company came in with raw data, work papers, logs, and the like, or did they come in with a conclusory number as to what the reserves were.

A. In my understanding, the way that they did it—they did it a couple of ways. Some people came in using the form just as it had been sent out in that letter of November 20th with figures right on that form. And of course they identified themselves, who they were, and then our people had a master work sheet and they copied in that total from that company and then checked that company off. I understand also that some companies had more or less recopied the form, maybe on larger sheets—on ledger sheets, or something—and had brought the material in in that way, and we copied it off. But in every instance they had the same points of reference geographically and so on, so it followed in either event the format that we provided.

Q. So you got conclusory numbers, not raw data, from the company from which you filed the conclusory numbers, is that right?

A. I don't know—I'm having trouble with "raw data" and "conclusory numbers."

Q. I'm trying to find out whether there was any method used to check the accuracy of what the companies provided you or whether you just accepted the numbers furnished.

A. I think in most instances, as far as I know, we accepted what the company gave.

Q. Why do you say "most"? Do you remember a case in which—

A. I don't really know of any instance where we went to check out the figures. I understand, I've been told that there were occasions when we did, but I know of no instance—I don't know who did it, if that in fact was done.

Q. Who told you that it was checked out?

A. John Williams—I say, he told me it was checked out. He told me he *thought* it was checked out, so I don't know whether he knew it himself or it was strictly hearsay.

Q. Point No. 3 indicates that the company papers were returned to the representative immediately after copying. Is that right?

A. Correct.

Q. Does that mean that to the best of your knowledge the FPC never received possession of identifiable company responses?

A. We never received permanent possession. We received possession long enough to copy the figures off and return them.

Q. You indicate on page 2 that the work papers were deposited by Mr. Williams, and say on page 3, you indicate that you never instructed Williams, Brady or any other member of the staff to destroy or dispose of the work papers. Is that correct?

A. Correct.

Q. Can you define what you mean by work papers in this context?

A. The work papers, as I recall them, were large ledger sheet looking things like accountants used and they were about 14x18, as I recall. And they had the information outlined in much the same way that we, well in the same way that we had it set out in the form of a questionnaire attached to the November 20 letter, and with enough space under each area of interest to copy what reserves were available in a given area for each of the companies, and these large sheets, I don't recall how many of them there were, were what we used to copy from to composite and eventually come out with our report to the Commission.

Q. Do you have any knowledge whether such work papers were destroyed or disposed of? Because your statement—because you didn't direct it to happen, doesn't say whether or not it happened or did not happen.

A. No, I have no knowledge of their being destroyed. The last—the only knowledge that I have of them, or the last information that I had about their whereabouts, was they were deposited in the safe in the Office of Administrative Operations, and I presumed until this matter came up with the second phase of R-405, I presumed that those papers were still in the safe. As I indicated before, I talked with Hryskanich, who is now head of the Office of Administrative Operations, about this, and he did not know the whereabouts of the safe and consequently I don't know the whereabouts of the safe or the papers.

Q. Mr. Mangen indicated that he took the actions he did regarding R-405 updated because he was following a precedent established on R-405 originally. Were you aware of that?

A. Yes. That's what I understood. Mr. Maxson told me that when he first contacted me that this is what Larry Mangen had said.

Q. I take it you believe Mr. Mangen to be wrong?

A. Yes, I do. I think Mr. Mangen believes that he was wrong, now, too.

Q. Have you had any communications or discussion with Mr. Mangen since Mr. Mangen indicated that he was following the precedent of R-405 originally?

A. Yes, but it was very brief and we did not discuss whether I had written such a memo before or not. We were discussing, and he called me up wanting to know if I had a copy. I believe he wanted a copy of the report to the Commission we made, and he may have wanted something else. It had something to do with 405, and I told him on the phone that I had—Oh, I know what it was, he wanted a copy of the letter that was a report to the Commission by way of—we addressed a letter to Mr. Plum. I think it was written in March or April—he wanted a copy of that. And I told him that I had made a copy and had given it to Webb Maxson along with a copy of the letter I sent out originally on 405, and he said that he was glad to hear that, he would get it from Maxson, and that he was anxious to see the letter. He didn't say anything more about it. I'm not sure whether I told him, or it was in my conversation with Maxson, that I might have been informed him that what Mangen expected in that letter was not there. I know I told Maxson, but I'm not sure whether I told Mangen or not. I incidentally don't really know Mangen. To the best of my knowledge, he may know me as do several people on the Commission, but to the best of my knowledge I've never been introduced to him. I don't know him. He never discussed the initial phases of 405 with me at all; and until the reports in the paper, I didn't know who was doing the secondary phase.

Q. So he never discussed matters with you, then, I take it?

A. No. If he walked in the room right now, I wouldn't know him either.

Q. Were any of the companies who complied with R-405 original ever advised that they had the option of having the responses returned to them or destroyed?

A. They may have been advised that they had the option of sending the material to us and we would copy it and they could return it. I mean, we would return it to them. But we never indicated that it would be destroyed. I say may have been. I don't. I never had any such discussion with the company. Whether Mr. Brady or Williams did, I don't know. It seems as though we discussed the possibility among us, Brady, Williams and I, the possibility that some company who was in California, may not want to go to Houston, Texas, just to bring this material. And, if they wanted to, they could just mail it and we would send it back to them. But, as it turned out, nobody did that.

Q. Who were the technical people you refer to on page 3 that advised that someone with knowledge of the industry could piece together the information provided on your forms with other available information to make a fairly reliable educated guess as to what company operating in a given area belonged to your figures.

A. I can't recall exactly who they would be. It may have been Tom Joyce that I discussed that with. It may have been someone else in his office at the time. I recall, I just recall vaguely talking about it. I recall too the, I did know something about oil scouting, and I recall the conversation only in terms of the fact that I related it, related someone taking this kind of information the way an oil scout takes information about drilling, and, you know, oil scouts typically can sit back and watch how many feet of pipe are used, and so on, and tell how deep the well is, and knows about what it is. They take all kinds of information that's relatively meaningless to someone like me and they can tell you all about that well and maybe about the field. And, so, I recall having a conversation with someone, and I'm not sure exactly who it was. But they, I remember being impressed with the fact that someone could take information, even though we didn't get that in the company name, and could piece together the information that was on there and could determine what company had what reserves and in what area.

Q. What would that accomplish, if Shell knew that Texaco had X quantity of reserves in Y area?

A. Well, I assure that would have some kind of potential effect upon competition in the area.

Q. I mean, but how? Do you know how it would have an effect, or of your own personal knowledge, do you know that it would have an effect?

A. No. No, I don't really know. I do know that companies apparently go to a great deal of effort to keep their competitors from knowing what their reserves are and what areas. Perhaps it's to keep, if their competitor knows that they have a large amount of reserves in an area, then perhaps their competitor will start buying leases up around that area and trying to get at some of the gas they figure is in the same area if there is an indication of a large reserve. But I don't know that much about the business to know why. I just know that oil companies generally don't want their competitors to know where they're drilling, how much oil they're getting, and they don't want them to know how much gas they are getting. That's what I understand. And that, of course, is subject to a lot of scrutiny, I guess.

Q. Why didn't they want the Federal Power Commission to know what the reserves were and where they were located? Did you ever find that out?

A. I don't know that they didn't want the Federal Power Commission to know. I don't really understand that question particularly other than—you mean why did they not want to provide the information to us?

Q. Yes.

A. I don't know. I have several—I think—to a large extent—there are different reasons why, typically, why companies don't want to provide information to the Federal Power Commission. One is, it's just simply a matter of the fact that the Federal Power Commission is the government and they don't want to go along with it. There are other reasons I think companies are probably concerned about information that they have which is vital to their competitive status, going to some part of the Federal government, and then they have their security compromised. I think that would be my greatest concern if I were in a company. But, other than that I don't really know.

Q. As I understand it, you're the attorney responsible for antitrust matters in the Federal Power Commission. Is that right?

A. Well, a majority of antitrust cases that have arisen in regard to securities matters and interconnection cases and that has come up recently, and a gentleman who works for me is the one who is primarily responsible for that. So, I guess I'm kind of responsible.

Q. Who is that gentleman?

A. His name is Dan Lampke.

Q. Given his responsibility and you being the supervisor, have you ever considered or recommended that the Federal Power Commission commence an antitrust investigation into the reliability of the reserves reported to the Federal Power Commission by the American Gas Association?

A. I don't understand. Let's see, could you repeat that, say that again?

Q. Well, the FPC in its rate making cases utilizes the reserves reported in the aggregate by the American Gas Association. The reserves so collected or furnished in secrecy by member companies, the higher the reserves are the lower the prices would be, the lower the reserves are the higher the prices would be. I'm sure you are familiar with that. And if you are responsible for antitrust matters, I would like to know whether you ever recommended, and if not why not, an investigation by the Power Commission to find out if the reserves reported by the AGA were accurate?

A. I have not suggested that to the Commission—I think the most direct answer to your question. Secondly, probably the reason that I have not made any recommendations along this line or any other line with respect to antitrust is that this is an area that we've only been concerned with since the Gulf States decision. I say we've only been concerned with, we've been concerned with it all along, but since the Gulf States decision I think that we're, the Commission is aware of the fact that this is a matter that they're going to have to be concerned with in certain types of cases. And, consequently a lawyer has been designated as being responsible for handling the matters that we now have that pertain to antitrust. But we have not, frankly, we were not even in a position yet to suggest policy decisions of this nature because we are simply trying to handle the problems that we got. Of course, if we, once we get these cases, we've about 14, I think, antitrust cases, which is not a small load in antitrust, when we get those cases down the road it may well be that we'll get involved in that sort of thing. I don't know.

Q. Do you agree that it's a good thing for the Federal Trade Commission to pursue the investigation of the reserves reported by the American Gas Association? Or do you think that they shouldn't be doing that?

A. Well, I'm—to say whether they should or they shouldn't—I think I would have to know considerably more about the FTC. I think it's a legitimate point of inquiry for an agency of the government to make. And if the FTC is the appropriate agency, and I assume it's under, is it sec. 5 of their act, that they have antitrust responsibility. Then, and the national gas situation is something that they're genuinely concerned with, then I'd say yes. The Federal Power Commission is certainly also legitimately concerned in this thing, and I think the courts have told them in making determinations of public interest that they have to take antitrust in consideration. And whether or not the Commission itself determines to launch an investigation of the nature that you're talking about or to expand the investigation that they've already got going, is a matter of policy for them to make. I mean it is a question of policy for them to resolve. And I think they can resolve it either way they chose, depending upon the way they wish to exercise their discretion. If they want to investigate AGA reserves, the Federal Power Commission certainly has the jurisdiction to do it. They can do it. And if they don't want to, then they have the discretion not to do it.

Q. Does Mr. Lampke have any background in antitrust matters?

A. I'm not altogether that familiar with everything that Mr. Lampke has done in his life. I know he was an Assistant Attorney General in South Dakota, I believe. And in that position he did a great deal of investigation of companies for various reasons. He also has an advanced degree in business, in addition to his, I believe has two masters degrees as well as a law degree, and in business, so the other experience that he has primarily has been that that he has gained with the Commission.

Q. How long has he been with the Commission?

A. He's been with the Commission since, I think, he was here a few months before I got here, sometime in the spring of '70. He worked with a fellow named Mike Manning who I picked up on a special detail for the NEPOOL case, or these powerpool cases, it was an electric case, the issue of antitrust was raised and I was very short of people, and so Manning came in to handle the antitrust aspects of that. Manning was designated for some time to be the antitrust specialist, and he left recently to join some firm in town and Lampke was working with him on the NEPOOL case handling the electric side of it and because of his associations with Manning and his familiarity with the subject, he became the new resident expert.

Q. Do you know whether minutes were kept by the Commission of the meeting at which they discussed the original R-405?

A. Were minutes kept?

Q. Yes.

A. Minutes were kept of every meeting. So I assume that they exist.

Q. After the questionnaire was sent out on R-405 on November 4, and after the letter was sent out by you to the companies on November 20 saying "fill it out, this is the procedure we're going to use," just what else did you do with respect to R-405?

Q. Were you out in the field transcribing data on work sheets or did you make a composite when you came back, or what?

A. No, primarily I just coordinated the thing. Mr. Williams and Mr. Brady both had background in gas, my background was in electricity, and you will recall 405 covered not only gas but electricity. And I was concerned to a large extent with collection of the material that came in from the various reliability councils. And I also more or less just rode herd on what was going on to make sure we got the report out as quickly and as efficiently as possible. So the answer to your question with respect to the gas side of it which is really what you're interested in is that I did not go out into the field. I sent Mr. Brady and Mr. Williams to Houston and to Tulsa and they manned the operation in Washington as well. The only time that I was involved with the actual operations of collection of data was when it was in Washington and I went upstairs and checked in and checked to see how they were operating. And how it was coming along and whether or not we were going to be able to meet our deadlines or not. And to try and offer some encouragement to speed things up.

Q. Did you meet your deadlines?

A. I believe so. Usually do.

Q. Thank you very much, Mr. Tourtelotte. Is there anything you would like to add to your statement at this time?

A. I can't think of anything I could say in this matter that we've missed at all.

Q. The time is now 12:35, Mr. Tourtelotte, and because this is a preliminary subcommittee investigation at this time, and because the identity of all interviewees is not yet fully determined, and because the subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are requested not to discuss the substance of this interview with anyone other than your own personal attorney.

A. Very well.

Q. Thank you.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY STAFF INTERVIEW WITH GEORGE B. VIVIAN, FPC, JUNE 15, 1973

Let the record reflect that this interview with Mr. George B. Vivian is being conducted in the Senate Antitrust and Monopoly Subcommittee's offices on June 15, 1973. The record of the interview is being recorded. Present at the interview are Mr. George B. Vivian, Mrs. Patricia Bario, Professional Staff member; Mr. Bernard Nash, Assistant Counsel of the Senate Antitrust and Monopoly Subcommittee; Mr. Charles Bangert, General Counsel to the Senate Antitrust and Monopoly Subcommittee. The time is now 2:25.

Q. Mr. Vivian, I'd like to read this statement to you and then I'll give it to you and you can contemplate it and sign it, if you so decide: "Since the nature of the conduct being investigated may amount to violations of one or more

federal laws, we believe it only proper that you be advised of your rights. You have the right to remain silent, to refuse to answer any questions you feel may tend to incriminate you. Anything you do say can be used against you in any other proceeding. You have the right to have counsel of your choice with you during questioning, and the right to talk to him for advice before we ask you any questions and before you answer any questions. If you desire to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You will also have the right to stop answering at any time until you talk to a lawyer." And we ask that you read this, understand your rights, and voluntarily waive them and agree to be interviewed.

Let the record show that I have handed Mr. Vivian a copy of the paper which I have just read into the record.

A. I agree to be interviewed and I will sign the statement here.

Q. And you do not desire to have an attorney present, is that correct?

A. That is correct.

Q. Mr. Vivian, we are here today because of newspaper reports regarding the alleged attempted destruction of federal records. If true, it could possibly amount to a violation of federal laws, and I'd like to read you Title 18 of the *Criminal Code*, U.S.C. Section 2071: "Whoever wilfully and unlawfully conceals, removes, mutilates, or destroys or attempts to do so, or with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing filed or deposited with any clerk or officer of any court of the United States, or of any public office or of any judicial or public officer of the United States, shall be fined not more than \$2,000 or imprisoned, not more than three years, or both." The only reason that I want to call this to your attention is to let you know that that statute *does* exist, and it's not at all an indication that you're in any way involved in violation of the statute.

I would also like to read to you Title 18, Section 1001, "Statements of Entries Generally." It reads: "Whoever in any matter within the jurisdiction of any department or agency of the United States knowingly and willingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, suspicious, or fraudulent statements or representations, or makes or uses any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both."

Now, Mr. Vivian, we will ask you a series of questions, and we want you to understand that there is no basis of accusation or innuendo or prejudgment intended. It is only a means of eliciting information from all witnesses and obtaining necessary background information to evaluate all the circumstances involved.

Would you please for the record state your name?

A. My name is George B. Vivian.

Q. And as I understand it, you're known as Brett Vivian. Is that correct?

A. Yes.

Q. And what is your address?

A. 902 Enderby Drive, Alexandria, Virginia.

Q. And what is the present position you hold with the Federal Power Commission?

A. My present position—the title of the position is Procurement Officer.

Q. And could you give us a brief description of what your job entails?

A. As Procurement Officer, I'm responsible for all procurements of the Commission that have to do with advertised bidding and negotiated bidding on contracts, over and above the small purchase type of thing. And that is, right now, one of my major efforts. In addition to that, I'm responsible, as one of the security officers, my—the director of my office is actually the Security Officer by Charter of the Commission, but I handle the supervision of all national security classified materials in the Federal Power Commission. I set up the program for the registration of documents when they come in, the accounting for them as they are in the Commission, and the transmittal of documents when they go to outside of the Commission—which does not happen too often—and also the destruction of those classified national security type documents that are no longer useful or that we have been instructed to destroy by the appropriate authority.

In addition to that, I'm responsible for the emergency operating facility at the Power Commission and do the emergency preparedness planning and coordination.

Q. And who is your superior?

A. Peter Hryskanich.

Q. And you indicate that he is the designated Security Officer for the Federal Power Commission, is that right?

A. His job description indicates that he is a Security Officer, and I'm, in fact, one of the Assistant Security Officers.

Q. Well, as a practical matter, does he have anything to do with—

A. In practically—no, he does not. I have taken over all that function really.

Q. And could you just, again, give me a little more information with respect to what the duties of a security officer are?

A. Well, for the national security type information, the responsibilities are for the registration of documents when they do arrive—documents and material, whatever they may be—the handling of them, the security of them in the office, and the security of them as they are passed around to individuals who have a need to know what's in the document, the security of the storage of them while they're in our possession, and the transmittal of such documents back to the originator or the destruction of them if this is appropriate.

Q. OK. We'll come back to that a little later—

A. I think much of this can be understood from Executive Order 11652, which is the classification, declassification, and so on, of national security materials.

Q. Thank you. Would you describe the relationship of your office in terms of the chain of command in the Federal Power Commission—where does it?

A. Our office is the Office of Administrative Operation, and, as such, we handle, in general, the housekeeping for the Federal Power Commission. We operate the central library, the records and dockets section, the drafting, the printing plant, and we handle the transportation for the Commission—that is, arranging airline tickets. We have a couple of staff cars that—we handle them—overall, the general housekeeping duties associated with any organization—administrative services, in effect.

The classified material was placed under the Office of Administrative Operations, I don't know when, but they have had that responsibility for some time.

Q. And what has been the length of your tenure in your present position?

A. In about one more week, two years.

Q. And what is your GS rating in that—

A. 13.

Q. How long have you held the position as Assistant Security Officer?

A. Ever since I've been at the Commission.

Q. And you have been at the Commission itself for two years, is that correct?

A. [Inaudible.]

Q. Could you just give us a little bit with respect to previous positions and lengths prior to your coming to work at the Federal Power Commission?

A. Yes. I entered the Army in 1940 as a Second Lieutenant and served for approximately 25 years continuous service in the regular Army and retired in 1965 as a full Colonel. At the time of my retirement, I joined Planning Research Corporation as a Systems Analyst and stayed with them until I came to the Federal Power Commission in December of 1971.

Q. What was Planning Research Corporation—what kind of organization was that?

A. A private industrial organization having to do with management analysis, computerization efforts, data processing work, that sort of thing.

Q. Would you please relate the circumstances under which you first approached the Commission and obtained employment there?

A. When I was with Planning Research, I was in their Intelligence Systems Department virtually all of the time I was there, and much of that work, of course, related to government contracts. In late 1970, I believe it was, there was some pretty serious budget cuts in the Department of Defense, which affected a lot of this type of contracting work that we were doing, and our department was pretty badly hit by the reduction in contracts and in contractual arrangements, and when the contracts that I was on terminated, there was nothing available at that time, so I started looking around for something else to do, because it didn't appear to me that for the time being anything was going to develop with PRC, and through a friend of mine, I found that the Federal Power Commission was looking for someone who had some background in handling of classified material, and I checked in with the personnel people and ultimately was given the job.

Q. So, you were primarily employed at the Federal Power Commission then, to handle classified material, and not necessarily in your other position, is that correct?

A. I think that would be reasonably correct. There was a requirement, because the Federal Power Commission was moving into a period of increased contracting effort—there had been very little up to that time, fairly standard type contracts. But the effort was to develop the data processing type work in the Commission, and I had some background in this, of course, and there was a requirement, a true one, for someone with this kind of a background, to work into the contractual effort of the Commission. The deputy director of the Office had been handling that, and of course, they could see this increased work load coming along, so it was convenient, apparently, to combine several of these particular duties into the job I ultimately took over.

Q. Can you give an estimate percentage-wise, how much of your time originally was spent doing the security officer's work and how much was spent doing the contracting work?

A. Well, originally, when I arrived, I had to collect up a lot of material—classified material—and much of my time at the outset was devoted to getting the system established, getting a manual of handling of this material published. But as time was going on—we got that in pretty good hand—as time was going along, our contracting effort was increased considerably and for the past several months, I've been spending the bulk of my time on contractual work rather than handling classified material. In connection with this, of course, I do have duties with the emergency operating facility which takes a little of my time. I have to go to a facility at least quarterly, so that takes some of my time, planning for that.

Q. Was there no system set up for classification and disposal of confidential documents prior to your arrival at the Federal Power Commission?

A. There was a system. How effective it was I don't know, and because what was there when I arrived, or what was there before I arrived, I don't have any personal knowledge of that and I prefer not to comment on what happened prior to my arrival at the Federal Power Commission.

Q. But I was under the impression that you indicated that one of your duties when you first arrived at the Federal Power Commission was to organize a system for taking care of confidential information?

A. Yes, that's correct. There was an instruction in our Administrative Manual series that covered this, but it was fairly out of date, and I considered it not particularly effective, so I developed a new one and, about the time that got set, this executive order to which I referred came out, and some of our efforts were changed a little bit, not significantly, but it did cause revision to our manual, and we now have an acceptable system according to the Interagency Classification Review Committee. We had to process our manual through them and get their approval on it.

Q. So that there is a written manual with respect to the handling of confidential material?

A. Oh, yes, national security material.

Q. National security material?

A. Yes.

Q. Now, do you contrast this as opposed to other material which the Federal Power Commission may consider to be confidential material?

A. I consider a very definite distinction in my responsibilities to the national security type material or documents. Anything administratively confidential, or, to use the term we used at Planning Research, "company confidential," that is not in the domain of national security and I don't have any responsibility for that.

Q. I see. So that with respect to the storage, the utilization, the disposal of material that has been administratively determined to be confidential by the Federal Power Commission, this does not come within your jurisdiction, is that correct?

A. That is correct.

Q. And your jurisdiction concerns only national security?

A. That is correct.

Q. Now, in your position as security officer, have you had to have any special training, such as investigatory training or police training?

A. No, not as it applied with the Federal Power Commission. As I say, I have been in military service for a number of years, and a good bit of that time was spent in intelligence work, with the Assistant Chief of Staff of Intelligence of the Army and the Defense Intelligence Agency, and I have been to some of their schools, the attaché course, and so on, and that background that I had was suitable for the type of thing we do now.

Q. In your position as security officer other than your duties with respect to national security documents, do you have any other duties?

A. I'm not so sure I understand—

Q. Well, as a security officer, other than your duties relating to storage, disposal, etc., of national security documents, do you do anything else—do you conduct investigations for the Federal Power Commission?

A. Oh, no. No.

Q. Do you conduct any electronic or other surveillance for the Federal Power Commission?

A. No, heavens (laughs). We don't have the requirement for that. If we do, we call in an agency available and have that taken care of. No, nothing like that.

Q. Have you called in another agency to conduct electronic surveillance?

A. This was done at—before I arrived, for the Chairman's office, and then about every two years or three years, they do this kind of a surveillance on our emergency facility, to be sure that it has not been—there are no listening devices or anything like that installed there.

Q. So that, the duties performed for the Chairman, is it your understanding that this is in the nature of checking to determine whether there were any listening devices on the telephones communications?

A. That's right—in the area of his office.

Q. And not for the purpose of putting listening devices on someone else's—

A. Oh, no. This was purely for the purpose of determining whether any kind of electronic listening device had been installed surreptitiously.

Q. Now, as security officer, do you monitor mail or anything like that?

A. No.

Q. Do you do anything as security officer other than have the responsibility for national security documents?

A. That's essentially correct, what you just said. We have recently moved into a new building, as you may know, and in working with another member of the office, who has been designated as the Physical Security Officer, we've been trying to provide better physical security for this building—that is, through the contract police that we have—and look the building over at the exits and entrances for better security for the people inside and for the office building. But beyond that, no.

Q. Who was the friend at the Federal Power Commission who advised you of the possibility of obtaining a position there, do you remember?

A. Yes. He's no longer with the Federal Power Commission.

Q. Do you remember his name?

A. Yes. Joseph Kutchansky.

Q. Now, in addition to the compensation which you receive from the Federal Power Commission, do you have any other sources of income such as stocks, bonds, holdings, etc.?

A. I have a retired income from the Department of the Army, which is cut just about in half because I was a regular Army officer, and I draw my full Civil Service pay, but actually, I guess, a little less than half of the retired pay from the Army. I do have some stock in the Planning Research Corporation. It was on the employee purchase plan, and when I left PRC those shares of stock were returned me, but that was a very small amount, and nothing other than a savings account and land down in South Carolina.

Q. Well, other than your Army pension and the stocks that you mentioned in Planning Research, do you have any other vested or unvested pension rights, insurance plans, retirement benefits, or other financial arrangements arising out of previous employments or from sources other than your personal finance?

A. Well, the life insurance that I picked up when I was in the military service, and a number of other policies—life insurance policies of one kind and another, plus the insurance—group insurance with Federal Power. That's all.

Q. Does Planning Research represent anyone in the oil and gas industry?

A. No. To my knowledge, no.

Q. And do you have any relatives working for or representing in any capacity the oil and gas industry?

A. I have one brother who is retired, one sister whose husband is retired and they are living in Florida.

Q. Since your coming to the Federal Power Commission, have you ever received any honorariums, gratuities, transportation expenses, gifts, or any other thing of value more than \$10 from oil or gas companies?

A. Not even up to \$10—Negative.

Q. Have you discussed your appearance here with anyone prior to your entering the room?

A. Only Mr. Maxson, the Executive Director.

Q. Could you please relate that conversation?

A. Excuse me, I have a bad sinus problem. In talking with Mrs. Bario yesterday, she told me socially the same thing you just read to me, and that I had a right to counsel. At that time, I didn't feel that I needed any counsel because I don't.

Then on the way in this morning from my home, I'll just ask Mr. Maxson his feeling about it and I went up to see him as soon as I got to the office and he said—No, I called him on the telephone and he said, "No, in your case, I don't think you have any need for counsel." And that was the extent of the conversation.

Q. And that was this morning in his office, is that correct?

A. No, I was incorrect on that. I called him on the telephone.

Q. I see.

A. I had seen him in his office earlier, but I was looking for his assistant. When I saw him earlier, I just said "Good Morning".

Q. And that was this morning, is that correct?

A. That's correct.

Q. And then you talked to him on the telephone?

A. That's correct.

Q. Have you discussed your appearance here with anyone other than Mr. Maxson?

A. No, only to tell Mr. Hryskanich, my boss as it were, that I would be over here so that the office people would know where I was.

Q. You had talked to Mr. Maxson yesterday after receiving a call from Mrs. Bario?

A. That's correct. I was in a conference at the time she called and the secretary gave me a little note that she had written out. I went up to see Mr. Maxson and told him I had received this call and what should I do, and he told me then that the Commission had decided to respond to Senator Hart's request to interview us and that I would go ahead and appear when called and to answer any questions I could. That is the kind of guidance I got from him, which is what I wanted.

Q. Has anyone indicated to you anything in the nature of a desire to debrief you or have them relate to you the content of the interview after the interview is completed?

A. No, sir. No one said a word to me. I would see no reason for telling anyone.

Q. You were requested, I believe, in the telephone conversation that Mrs. Bario had, to bring with you writings of any nature whatsoever including digests, logs, records of telephone conversations referring or relating to the use, disposition of documents involved in the alleged attempted destruction. Do you have anything like that?

A. I have nothing like that, Mr. Bangert.

Q. And you did make an effort to search your mind as well as your files to determine whether or not there may have been anything that you had in your position in this regard?

A. That's correct. There was a—nothing written down, I made no telephone logs or anything like that relating to this particular group of documents.

Q. And I take it, you did not discuss this particular request with anyone at the Power Commission, is that correct—the request for documents?

A. No, I did not.

Q. Now, I believe that earlier you indicated that there are certain rules laid out that you follow regarding use and disposition of national security documents?

A. That's correct.

Q. Have you ever received any oral or written communications regarding use and disposition of documents that may have been administratively determined confidential but are not national security documents?

A. Have I ever had to deal with this kind of thing, is that what you're saying?

Q. Well, I'm saying, first of all, that have you ever had any instructions with how to deal with it, either written or oral?

A. No.

Q. The Executive Director, Mr. Maxson, never gave you any instructions with respect to dealing with this type of material, that is, confidential material that has been administratively determined to be confidential?

A. The only thing that would relate here—you know, they're having now that National Gas Survey under the—under this little organization within the Federal Power Commission. We developed a contract for an independent accounting agent to—and I can't go into too many details on this, because I'm just not familiar with it except from the contractual arrangement. We obtained a contract with Arthur Young Company for doing the accounting by automatic data processing method of certain material having to do with the National Gas Survey. In connection with that, the Federal Power Commission sent out various field teams to these various fields around the country, and what they did—they did some kind of survey work—what they did, I don't know. But a part of their effort was to bring back from their surveys envelopes of data. Those envelopes were to be sealed and were to be turned in to Dr. Paul Root, who is the Technical Director of the National Gas Survey. I worked with Dr. Root in developing the scope of work for the contract, and of course I handled putting the contract out for bid and all that sort of thing.

And I believe these field teams were to be sent out on order of the Commission itself. When these field teams would come back from their effort, they would deliver those sealed envelopes to Dr. Root, and I provided a safe for him and showed him how to work the silly thing and how to account for the opening and closing. But, on those occasions when Dr. Root was out of town—and this happened a few times—he'd have to go out on business—a field team member when he brought the material in would bring it to me. I would give him a receipt for that one sealed envelope from whatever field it was, and lock them in one of my safes. And as soon as Dr. Root, then he—I would always tell his secretary when I had any of that material—when Dr. Root would come back, he would come to the office and would give me a receipt for these sealed envelopes, and then he took them off. I had *nothing* to do with them other than that.

This was arranged between Dr. Root and me with the concurrence of Mr. Maxson. Now, that's the only type of non-national security material that I've had anything to do with, and I don't even know what's in it.

Q. Well, do you recall Mr. Maxson at all giving you any instructions or advice with respect to the destruction of non-national security memoranda?

A. No.

Q. Could you give us a little information with respect to what you normally do in destroying information that comes into your possession for destruction?

A. National security information?

Q. Whatever kind of information?

A. The only time that I have been asked to destroy any material that was not within the scope of national security information was in this matter that's in front of us right now.

Q. I see. So, that you have never in the past destroyed any material other than national security information, is that correct?

A. Not entirely. When Commissioner Carver left the Commission—resigned the Commission—oh, this must be a year or so ago—his secretary called me—oh, this was two or three weeks after Commissioner Carver had gone, and said that he had left a couple of boxes of material (she didn't know what it was) in his office and had marked on it, "Please destroy by burning," and would I take care of it. So I went up to look at this, and there were about six of these boxes—five or six—that you use for sending records to the Record Center. And they were sealed with tape (masking tape), and they had written on them, "Destroy by burning," or "Burn,"—something like this—"Do not open." Two other members of our office who both hold security clearances came up with me that day because I was going to the incinerator to burn some classified material, and they went up to Commissioner Carver's former office and helped me put this stuff on a little dolly.

We took it out to the incinerator. At that time I was using one at Fort Totten that has since been closed, and we took it down and we threw the stuff in, and what was in it, I have no idea.

And when we got back, I called his secretary and told her that it had been burned and that was the end of that.

That is the only other time I've been asked to destroy anything other than national security material.

In national security material, I keep a record of everything that is destroyed.

Q. Well, how is the determination made as to the destruction of national security material?

A. In most cases, well—I shouldn't perhaps say "in most cases," but, in one category of material that we handle having to do with emergency communication procedures, and so on, as new material is sent in wherein the letter sending it says, "Destroy what you had before." The material we get from the Office of Emergency Preparedness, as it updates previous material, we are instructed to destroy it according to our own agency instructions.

Certain things that we get from the Department of State—telegrams, either incoming or outgoing—we are on their distribution for matters relating to energy in general—that material, if it is no use to the bureau that it may be directed to, they send it back and recommend that it be destroyed, and if you keep too much of this stuff on hand, you get yourself into security traps. It becomes a security hazard. In the executive order that I referred to earlier specifically states that classified material that is no longer useful should be destroyed.

So those are various needs, not instructions in that sense, that give you a reason to destroy classified material.

Q. Well, is there anything written with regard to who has the authority to request you to destroy material?

A. Written by whom?

Q. Well, by either the Power Commission or by anyone else.

A. Well, as I just pointed out, in certain types of the material we get, having to do with our communications efforts, we are instructed to destroy the preceding material, just as we are instructed by the Office of Emergency Preparedness to destroy material when it is replaced by updated material.

Q. Well, if some of this material was in the hands of, say, a bureau chief, could he bring this material, that is, national security material, to you?

A. All national security material comes to me, to our office, and there it is transmitted after it's been registered, and whatever it is, to a bureau chief or to the Executive Director if it's advisable, but it may not be retained by them overnight. It all has to be returned to our office for storage, and normally the material that we get from the Department of State the Bureau Chief will indicate whether we should keep it for a period of time or whether we should just go ahead and destroy it. Much of that is not of any particular interest. Some of it, of course, is, and they may want me to hold it until whatever that situation that has been reported has developed or finished or whatever.

Q. So, to the best of your knowledge, then, the bureau chief *can* direct you to destroy national security material, is that correct?

A. Well, in that sense, yes, on that type of thing, yes.

Q. Well, is there any other type of thing that he can't?

A. That's right. He couldn't direct me to destroy a document from the Office of Emergency Preparedness unless that document were replaced and I would then—I would get such instructions from the Executive Director, not from the Bureau Chief.

Q. And to the best of your knowledge, the Chairman does not have to approve destruction of documents, is that correct?

A. In the past, the director of Administrative Operations, my superior, authorized the destruction of the material on the form that I used for destroying such stuff. That's the way we have been doing it in the past. There is a destruction certificate universally used throughout agencies that handle classified material, and the classified material that I destroy is registered on these destruction certificates.

When I get the material ready to be destroyed, I have it all registered on the form, I take it in to the Director of Administrative Operations, get his signature authorizing me to go ahead and destroy it, and then I sign (after it has been burned) I sign as the destroying officer and I always have one of the other individuals in the office who is cleared for classified material to accompany me and serve as a witness and he signs as a witness to the destruction.

Q. And you yourself do not have authority to destroy that material on your own, is that correct?

A. Well, yes. There would be no real argument, I don't believe, certainly not heretofore, if I wanted to go ahead and authorize myself to destroy it, but I wouldn't handle it that way.

Q. Have you ever authorized yourself to destroy material before?

A. No.

Q. And you always go to your supervisor?

A. Every destruction certificate that I have over there has the signature of the Director of Administrative Operations on it.

Q. And who is that?

A. That's Mr. Hryskanich.

Q. And, is my understanding correct that the only material that you have destroyed before of a non-national security basis—I'm sorry—that you have *never* destroyed material before except of a national security nature, is that right?

A. Except for those boxes of things from Commissioner Carver.

Q. Except for the material from Commissioner Carver?

A. Yes.

Q. And, other than those documents or that material that Commissioner Carver asked you to destroy, prior to the incident involving the 79 gas distribution companies, has anyone ever requested you to destroy material?

A. No. No.

Q. Do you have a shredder?

A. No. We do not have a shredder in the Office of Administrative Operations. If there is one in the Federal Power Commission, I don't know about it.

Q. And, I take it, you don't have an incinerator either?

A. No, we do not. We did not have one at the GAO building where we previously were nor in this building. When I wanted to destroy documents, I first was able to take them over to the incinerator by the Navy Yard. And then that was closed down for environmental reasons, and they then had us go up to Fort Totten, near Catholic University, and *that* was closed down for environmental reasons (laughs), and then I worked out an arrangement with the manager of the incinerator over in Arlington, just off Highway 1 at Glebe Road, and I went over there. I only destroyed about one bag of material a month, if that much, so I don't have any great requirement like the State Department or the Department of Defense, and so on. And I was usually able to work in and there was no question—they'd open the gates and throw the bag in and that was the end of that.

Then the Arlington County incinerator closed down and I haven't made any proper arrangements since that closed down (laughs).

Q. I just hope the national security won't be in too much trouble because you can't find an incinerator.

A. Well, I think I'm going to use incinerator #5 out on Benning Road, but it is getting increasingly difficult to find places where you can burn documents.

Q. Let me just go back once more to this question that I asked you before and I *would* like you to reflect and refresh your recollection once again. To the best of your knowledge, has Mr. Maxson or anyone else given you specific oral or written instructions with respect to the procedures to be followed for the destruction of documents?

A. What kind of documents are you speaking of, now?

Q. Either national security documents or confidential documents that have been so determined administratively?

A. I have not had *any* instructions, written or otherwise, having to do with administratively confidential documents. The instructions having to do with the national security classified documents are those instructions I wrote in the manual that governs the safeguarding of classified material for the Federal Power Commission, which were approved by the Commission.

Q. And in those instructions that you prepared, they do not require the Chairman's approval for destruction of national security documents?

A. No. The instructions indicate that the documents shall be registered on a destruction certificate, which—and the approval will be given by the director of Administrative Operations, who is the Security Officer in that sense, and that they will be destroyed by a destroying officer and witnessed by a witnessing officer. In effect, that's what that paragraph says.

Q. Ok. Now, going to the situation involving the mutilation and proposed destruction of the documents involving the data received from the 79 gas producing companies, could you describe the circumstances surrounding the request for the destruction of those documents?

A. Yes. On or about, and I must say, my recollection of the date that this all started is very unclear, very unsure, but I believe it was about April 23 or 24, when Lawrence Mangen called me and asked if I took care of destroying material, and I told him, Yes, I did, for national security material. And he said, "Well, I've got some documents that should be destroyed, and they're not national security. Suppose I bring them down?"

"Fine."

In a few minutes he came down with this stack of papers, and he told me then that they were reports from utility companies having to do with the natural gas business, and he told me then that these documents were to be either returned to the companies if they so requested, or they were to be destroyed when the Commission was finished with them. And he said, "We're all through with them now, and the ones that are here the companies don't want back, and could you take care of getting rid of them?"

With that kind of an explanation of what the documents were, I just briefly leafed through them to be sure that's what they were (it was no business to me what was in there). I knew also of the company confidential nature, of this type of thing, having worked with Dr. Root on the survey that I previously described.

So I told Larry, Yes, I would not give him a receipt for the papers unless he wanted to make a complete inventory, that I wouldn't inventory them and I'd just put them in the bottom of a safe until the first time I was able to get to an incinerator when I had enough other material to destroy, then I would take them along. I said, "Now, are you through with them, because I'm not so sure when I'm going to be going to an incinerator."

He said, "Yes, I'm all through with them. I don't have any more need for them." And that was that at the moment.

I had hoped to destroy everything that was no longer of use or that had been directed for destruction (national security material) prior to moving from the GAO building to our new offices on North Capitol Street. I couldn't see any reason for taking a bunch of junk along.

I had some material in a bag that I had—not destroyed, but torn in quarters—and had registered in handwriting on that destruction certificate. I had about a half a bag of that (maybe not that much), and about May 2, as I best recall (we were going to move our offices on the weekend of May 11)—on or about May 2, I thought I'll just get rid of Larry Mangen's stuff because I want to get to the incinerator before we move.

So I called Mrs. Hyde, who was at that time the Administrative Assistant in our office (she's since retired from the Federal service). I asked her to step in to my little office, and then I said, "Sue, I want you to watch me tear this material up. It's some stuff that Larry Mangen brought down and it's to be burned." And I tore it in quarters by taking a page and ripping it in half (several pages at a time obviously), and then taking those pages and ripping them once more, which is the normal procedure that's followed when you're getting material prepared for incineration, because it makes it burn better inside the bag. As I tore it I dropped it in one of these burn bags. When I was finished, I said, "That's fine. Thank you, Sue. In case anyone asks you, 'Yes,' you did see me tear this stuff up and put it in a bag for burning."¹

Then I called the Arlington Incinerator, perhaps that day or the next day, to find out when they were going to close, because I wanted to go that day if I could. And they had already closed the incinerator down. And the man I talked to there told me that there was a possibility I could use incinerator number 5 in the District on Benning Road at 34th Street. So I called them, and they told me, Yes (for just the kind of thing I had at that time, I would have had two bags, maybe—two grocery size bags) that they would permit me to burn that (you have to get a permit to burn the material there, any sizable amount—truckload or something like that). But they said to come on by and stop in at the little office and they'd take care of it.

¹ Maxson said that Mangen witnessed the mutilation and the Mangen and Vivian had both testified to this. *Maxson Interview*, p. 72.

Well, with the move and trying to get our office packed up and all this sort of thing, I just was never able to get to the incinerator. And we moved on over at North Capitol Street and, again, it was the reverse of getting ready to move. We were getting unpacked and putting things away, so I did nothing further about this material.

Then on May 21st, which I believe was a Monday, Mr. Mangen called me and asked if I had burned this material. And I said, "No, Larry, I have not had a chance, but I did prepare this material for burning by tearing it up."

He said, "Well, can I come down and take a look? I need something out of that pile." So he came down to the office and I dumped the bag into an empty drawer. He was looking for a compilation that they had made, apparently, of the individual reports from each company, and it was on a work sheet like this, you know (a green-lined work sheet), and it was in pencil for the most part. So, he was able to get all of that he needed, and he said, "Fine, I think this will take care of my problem."

A little later in the day, he called and said, "Don't do anything with that material, because I may need a few other things."

"Fine! Any time you're ready."

Well then, Tuesday the 22nd, he came back and he said, "I do want to look for another piece of material." So again, he worked his way through this mass of stuff in the drawer and apparently found what he was looking for then, and he said, "We may have to have all of it back."

And I said, "Well, all right. If this is the case, I'll go through it and separate out that national security material which I have mixed in. I will separate that out so that it will make your job easier if this is what you have to do."

So I started. I could recognize quickly the material I was responsible for, and as I was doing this, Mr. Thomas Joyce, the Bureau Chief, came down, and offered to help separate the stuff. He said, "I'll recognize the utility company material," and he said, "I'll try and grab that and you grab the stuff that you can recognize."

And, as we were doing this, Mr. Maxson then came into the office and stood there until we had gotten it all separated out. Mr. Joyce said, "I think this is all of it," and then we went back through what we had put back in the safe drawer, and I put that stuff in big envelopes for him and he took it away. And that's the last I've ever seen of it. If he has it now, I don't know.

I do know that—and I can't remember if it was Mr. Joyce or Larry Mangen told me—that they got every bit of it put back together, that there wasn't a single piece missing. Then, as I say, I can't remember who it was that told me that.

And that was the last I had any firsthand knowledge of that material: when Mr. Joyce walked out of my office that afternoon.

Q. On the occasion when Mr. Mangen first called you and then saw you with respect to the request to destroy these documents? I take it that this was an unusual request as far as you were concerned?

A. As far as I was concerned, yes it was. But I didn't feel it was anything particularly out of the ordinary because I *did* know based on the work that I had done with Dr. Root, that this information, or the information that was being supplied to the Commission by the various utility companies (gas-producing companies) was considered to be administratively confidential. It was company-sensitive type information and once Larry told me that it was no longer useful and described what should be done with it (either returned or destroyed). I felt the least I could do was accommodate him because not too many people enjoy going to incinerators, and I'm one of them because it's part of my job, and as an accommodation to him, yes. And I had no question in my mind that it was not authorized. I knew that he was in the Bureau of Natural Gas (supply and distribution section. I believe it is) and my rationale was if Mr. Mangen says the material is no longer useful and should be destroyed, why, I certainly can accept that.

Q. And according to one of the newspaper reports, there was an indication that perhaps you balked at first in supplying this. Is that correct?

A. Well, there are several inaccuracies in that first report. I don't know where that idea arose. I certainly did not balk. Mr. Mangen did not direct me to destroy it, as one of the articles indicates. He merely asked me and as an accommodation I agreed. The article also says I went to the incinerator and it was broken down at a military installation. I have *never* used a military installation incinerator (with the Federal Power Commission), and I *did not* take the material out of the previous office to *go* to an incinerator to burn it. I merely was shut off because I made a telephone call to the incinerator, and he said, No, they were closed.

So the material from the time Mr. Mangen brought it down to my office and I put it in a safe drawer—it stayed in that safe drawer until I tore it up and put it in a burn bag, which went back in *another* safe drawer (we have three safes that we keep classified material in)—I put it back in another safe drawer, and that material *never left* that safe drawer until Mr. Mangen came down and took his couple of pieces out *at first*, and then Mr. Joyce came down and removed all the rest of it.² That material *never left* that safe drawer.

Q. So that even though this was a somewhat unusual request, you didn't feel any compunction about agreeing to do it, is that correct?

A. That's correct. Mr. Mangen is a responsible, professional engineer in the Federal Power Commission. He—I don't know the details of what he was doing and it's not my business to know, but I knew since he had the material, that he must have had some work to do with it, and I considered him a professional and why should I question the destruction of this material, having had some previous knowledge of the sensitivity of this company reported data, based on my knowledge of the independent accounting agent contract, which I worked on.

Q. And it never occurred to you that the destruction of that material might in any way violate the rules of the Commission or the rules of that procedure, is that right?

A. That's correct. That didn't cross my mind because I wasn't aware of the Commission's order which may have set this up and I still am not really sure how this was set up for these companies to make this report. I don't have a great deal to do with that aspect of Commission function, and I'm in a completely different part of the organization, in that sense.

Q. Now, again, the newspaper accounts indicated that Mr. Mangen indicated to you that that was sensitive material and that many people coveted it. It that correct?

A. That is *incorrect*. He never made any such statement to me.

Q. Well, what did he indicate to you when he asked you to destroy the material, do you know?

A. Just as I've previously explained. It was material that had been provided for the Commission by these reporting companies having to do with the National Gas Survey, and that when the Commission was finished with it, it was to be returned to the companies if they requested it, or that it be destroyed. And that's all he told me.

Q. Now, when you first talked to Mangen on this first occasion, did he indicate at all that he had the approval of anyone else to make this request?

A. No. He didn't make that remark to me.

Q. So you didn't know at that time whether he was doing it on his own or with the approval of the Commission or—

A. No. I had no knowledge of anything like that.

Q. Have you dealt with Mr. Mangen in the past?

A. No. I knew him very slightly. I've had no reason or occasion to have business with him or with his office. I knew who he was, and that's about it.

Q. Did you believe that he had the authority on his own to order the destruction of those documents?

A. I can't comment on that because I just don't know.

Q. Then, think about it.

A. It didn't occur to me that there was any reason to question the fact that he—either he could say himself to do it or he had some kind of instruction to get rid of the material.

Q. Could you describe a burn bag?

A. The General Services Administration has a bag (I've forgotten its exact size), but it's much bigger than the grocery bag you get at the Giant or someplace like that. It's got alternate red and white stripes on the thing, so that it is perfectly obvious that it is a special bag. It's just a plain paper bag (heavy Kraft paper), but it does have these red and white stripes down it.

² "I [Mangen] went down there a second time, but I don't recall anybody else being present. . . . I went down [the first time] to retrieve those documents. And we thought we had retrieved them all. But . . . we were missing some, so I went down to make a second check," *Mangen*, p. 100.

"The first thing that I [Joyce] asked him [Mangen] to do was to look and to make sure we had all of the tabulation sheets that we could put all of those together and then start to work on putting together the other papers, and this was commenced immediately." *Joyce 2nd Interview*, p. 36. See pp. 41ff for sequence of events.

The normal procedure is then to take a smaller, plain Kraft bag and put it on the inside, so that you have a double bag in fact, and this helps to avoid splitting and that kind of thing. And you tear the material up that you're going to destroy, drop it in the inner bag, and the proper procedure is, then, that when you're getting ready to actually move it out, to take masking tape and completely seal the top and twist it up into a spike and wrap that a number of times with masking tape so that no pieces can fall out of the top, and this is what they're like.

Q. Have you received any instructions or communications recently with respect to destruction of documents?

A. I'm not sure what you mean, but Mr. Maxson instructed me when this series of events took place that I was not to destroy any more material of any kind, classified or not, without the express permission of the Chairman.

Q. When did he so instruct you?

A. On May 22, I guess it was.

Q. And you had never had that instruction from anyone before, is that correct?³

A. That's correct.

Q. It was your understanding prior to this conversation with Mr. Maxson that you've related, it was your understanding that national security documents and documents that were administratively classified as confidential did not need the signature or the OK of the Chairman for destruction, is that correct?

A. Well, yes, I guess it is correct because, and I want to make a point clear here, now, that I never destroyed any administratively confidential material, since that was under my particular control and my direct supervision.

Q. Let me go back once again and ask this question: my question was that, except for the conversation that you recently had with the Executive Director, in which he advised you that administratively classified confidential documents could not be destroyed except with permission of the Chairman, you had never received that type of instruction before, and I believe you said that that was correct and that you had never destroyed administratively confidential material before, is that correct?

A. That's correct.

Q. Now, with respect once more to the first meeting with Mangen which you indicated was April 22, 23, or 24, do you have log books, calendars, national security log books, etc., which might pin down more precisely these dates?

A. No, I have not. As I told you at the outset, that date of April 23 or 24, to the best of my recollection, I went through my desk calendar pad (a month laid out calendar pad) to see if I can fix the date any better and I cannot. If there is a difference in the dates, if you have talked with Larry Mangen and he gave another date, I would probably defer to the date he gave you because he would have a little bit more accurate date based on when they finished their work, I would think.

Q. You indicated that there were some national security documents in the same burn bag as the documents you received from Mr. Mangen, is that correct?

Q. I had some national security material already torn up in a burn bag. When I tore up the utility company papers, I put them in another burn bag, and I had two bags separate. But then when I was trying to make arrangements to go to an incinerator, I don't (I can't remember which I dumped into the other)—but anyway, I did mix the two bags to get only one bag to take to the incinerator, and that's when I found out I could not go because the thing was closed down. So I just left it like that.

Q. Now, I believe you also indicated that except when you accept national security documents and put them in a burn bag, you put them in a log, is that correct?

A. I prepare a destruction certificate of the documents, of the documents that are to be destroyed, that's correct.

Q. Was there a destruction certificate for the national security documents that ended up in the same burn bag with the Mangen documents?

A. That's correct.

³ Maxson said Vivian received this instruction at the beginning of his tenure as security officer: "The instruction to the security officer with respect to the handling of everything other than national security material is that nothing be destroyed unless the Chairman approves its destruction. . . . when Hryskanich was succeeded by Vivian, I discussed it with him [Vivian]."*Maxson Interview*, p. 52.

Q. Have you checked to see what the date of that national security log was in order to try to fix the time a little better?

A. No . . . I had handwritten that thing and then it was typed. We didn't put a date on it at that time, and that won't help me any. No, unfortunately.

Q. Have you retained a copy of the handwritten log that you wrote?

A. . . . I tore it up once the typewritten note was prepared. Now, it may be mixed in with that material that I had previously torn up—I don't know.

Q. At the time that Mangen gave you those documents or thereafter, did you discuss your receipt of those documents with anyone in the office?

A. Within a few days perhaps, I did inform the Director of the office that he had brought this stuff down. I *don't*, as I recall, I don't believe I told him that same day. It may have been a day or two later. I don't know.

Q. Was there anyone else besides the director that you discussed it with?

A. No.

Q. You don't know whether the Director caused to be made a notation?

A. No, I'm sure not.

Q. Well, on this, I would ask you once again, Mr. Vivian, if you could possibly search your recollection and your records, and if you can come up with anything that will give you a more precise idea?

A. I will certainly make the effort.

Q. We would appreciate it.

A. I will certainly make the effort, but I can't guarantee (laughs) that I'll be able to come up with anything better.

Q. When you talked to the Director, I assume that he acceded to the destruction of these documents, is that correct?

A. Well, yes. I told him in a rather casual fashion, because, again, this was not national security material. I don't even remember how I told him, but . . . this to us was not any particular problem. Someone had brought in some material that he said should be destroyed, so we accepted the man's word that it should be destroyed.

Q. Now, you indicated that, as I understand, that early in May—approximately May 2—you tore the documents into four pieces, is that correct?

A. Yes. Practically all of them into four pieces; there may have been some of them in only three pieces, but that is what I attempted to do.

Q. Why did you wait until May 2 before you tore the documents?

A. No particular reason. They were in the safe drawer, they were secure, as far as that aspect of it, and I was working on other things and I wasn't planning to do anything to them until I was actually going to the incinerator.

Q. Well, can you recollect whether or not from the time you received the documents from Mangen until the time you tore them, was that a short period of time or a long period of time?

A. The best I can recall is in the nature of two weeks or three weeks. In my mind it was about two weeks, but again, I attached no particular significance to it when he brought the papers down and it didn't imbed itself in my mind as to the exact date. But it seemed to me I had them there before I tore them up about two or three weeks.

Q. Do you recall whether you made any trips to the incinerator between March 15 and April 22?⁴

A. No, I don't believe so. I may have made one trip. I could—that I could determine for sure by looking at my signed destruction certificate.

Q. If you would be so kind, we'd appreciate it very much.

A. I most certainly will.

Q. Why don't you, if you will, furnish us with all the dates you may have for March, April, and May with respect to trips to the incinerator or any other you have which would help us in pinning down more precisely the date involved here?

Now, did either Mr. Mangen or Mr. Joyce or Mr. Maxson or anyone else tell you why they wanted this material back?

A. Mr. Mangen did not. He just said something had come up and that he wanted the work sheet and then he wanted one or two other pieces of paper.

Shortly after that occurred, when Mr. Maxson called me on the telephone and asked about the material, had it in fact been burned, and I told him, "No," it had not, that it was in the safe, but it had been torn up. He then asked me

⁴ Vivian's travel dates were March 13-16; April 15-18. One sick leave is listed on March 20 (2 hrs.), "Selected FPC Employees, etc."

to come up to talk to him and I did, and he wanted me—somehow the word had gotten to him that I had put it through a shredder, which we do not have. Anyone that asked me about that, I showed him how I had torn it up and it could be reconstructed if need be. And during that meeting with Mr. Maxson, which was May 22, I believe it was, he then told me that the reason for all this was that there had been an inquiry from Senator Hart's Committee and that these documents were important to this inquiry, and that's all I know about it.

Q. Did Mr. Joyce indicate anything to you with respect to the * * *.

A. No. . . . Well, he came into the office and he asked where this material was, and I told him I was separating it right then from some truly classified material, and he said, "Well, let me get in there and help." He had no explanation or anything—other than to retrieve the pieces of the utility company reports.

Q. And he didn't have any problem at that time distinguishing what was the truly national security material and which was the report material?

A. No. There was no difficulty in distinguishing it. The bulk of the national security material were State Department cables that were of no use to us, and they are typed in one of these typewriters—well, it's like an IBM print. It's all caps, and they're very easy to recognize. And I was looking for that as Mr. Joyce was looking for the reports from these companies, and of course, that was on company letterhead paper and there were some kind of forms, and I'm very unclear on this because I don't know what it was. But it *appeared* to be some kind of mimeographed form that I would imagine the Commission had sent out to be completed and returned. I don't know that for certain. But it was reasonably easy to identify that on company letterhead type stationery from the kind of stuff that I was trying to separate out, and we'd just grab a handful of it, and start pulling the pieces of paper apart.

Q. Let me show you a document that we received this morning from Mr. Maxson, and it's marked "Maxson Exhibit Five,"—it's a letter from Texaco E dated October 13, 1972, and it is our understanding that this is one of the documents that eventually ended up in the burn bag. It was torn and there is indication that it has been scotch taped back together. . . . Is that representative of at least part of the material that was given to you?

A. Yes, from just this look. Of course, what I saw was the original and the letterheads were in different colored inks in many cases or had a company emblem or some such thing as that on it, but this looks *like* the kind of material Mangen brought to me and the way it's torn—appears to be torn—is what I might have done.

Q. And so, besides letters, there were also materials in there that had company figures on them?

A. I presume so. I can't be sure. I presume so, but I don't *know*. I didn't look at them in that light.

Q. Now, as I understand, Mr. Mangen asked you for a receipt of that material?

A. No, he did not. And I told him that I would not give him a receipt for that material unless he wanted to itemize every bit of it and let me go through it, but I wasn't going to sit down there and go through and report all this stuff.

Q. I see. And you were the one that broached that initially during your conversation?

A. As best I recall.

Q. And it wasn't because the normal receipts that you sign are for national security documents, is that correct?

A. That is correct.

Q. It was *not* because of that?

A. Well, it was because it was not national security information and I didn't see any point in sitting down and working up an inventory and receipt form for *this*—for that material.

Q. If he would have worked up the material, would you have been willing to give him a receipt?

A. I think I may have. At this moment in time, I don't know. At that time, I might very well have—if he had had an inventory, I might very well have done so.

Q. Are the State Department cables that you mentioned as being in with this material, are they still available or have they been incinerated?

A. No, they're still available.

Q. Would it make any sense to check the dates on those things?

A. No, it would not because they cover a period of a number of weeks. Those things come in and they may be delayed in the State Department for several days before they come over to us.

Q. How large a pile of documents are we talking about with respect to the material Mr. Mangen brought in?

A. A stack of about six inches—about six inches.

Q. Did Mr. Mangen at all indicate to you that no one else was to have access to this material while it was in your custody?

A. No, I think I indicated earlier, no, he did not.

Q. Now, as I recall your earlier statement, you indicated that you called the Arlington incinerator and found that it was closed down?

A. That's correct.

Q. Do you remember the precise date?

A. It was around the third of May, somewhere in that period.

Q. And then, at a later date, you called, I believe, the Fort Totten?

A. No. The incinerator No. 5 on Benning Road.

Q. And you recall the approximate date that you talked to them?

A. Just after I talked to the people at Arlington County incinerator.

Q. On the same day?

A. On the same day or possibly the next morning.

Q. All right. And then, did you call a third incinerator, is that correct?

A. I *hoped* to be able to work out a destruction effort with the Government Printing Office, which is just diagonally across the street from us. They have an incinerator of their own because they have an awful lot of burning they must do, and I called Mr. Bahr (whatever his name is). I called him on the morning of May 22, I believe, to try to set up an arrangement. Taking the materials there would be a short walk across the street.

And while I was talking to him, that was when Mr. Maxson called and told me not to destroy anything, particularly not to destroy that stuff that Mangen was interested in. But I hadn't gotten any real arrangement with the Government Printing Office.

Q. And when was this it that Mr. Maxson called approximately?

A. That was on the morning of the 22nd.

Q. Now, between April 23 or in around there, when, to the best of your recollection Mr. Mangen called to ask you if you would destroy the stuff these documents, and May 22, when Mr. Maxson called to tell you not to destroy them, did anyone inquire about whether or not the documents had been destroyed?

A. From the time Mr. Mangen first talked to me about those documents whenever that was, until he called me on May 21 to ask if he could come down and take out this work sheet, I had not had a single inquiry, question, comment, or anything else relating to those documents (with determination).

Q. Fine. . . . OK. I believe that's all the questions we have, Mr. Vivian. We want to, on the record, thank you for your assistance and cooperation. You've been a very forthright and helpful witness.

I would like to indicate that because this is a preliminary Subcommittee investigation at this time, and because the identity of all the interviewees has not yet fully been determined, and because the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are requested not to discuss the substance of this interview with anyone other than your personal attorney. Now, I want to hasten to add that, as you may or may not know, Mr. Maxson is conducting an investigation into these same circumstances for the Federal Power Commission, and this is not meant at all to inhibit you from answering fully any questions that he may have with regard to the circumstances. We would prefer, however, that you not describe the questions and answers that were specifically asked and answered during the course of this interview.

A. I understand.

Q. Again, we appreciate it very much.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY STAFF INTERVIEW WITH HASKELL WALD, FPC, JUNE 18, 1973

Let the record reflect that this interview is being recorded. Present are Dr. Haskell Wald, Mrs. Patricia Bario, Bernard Nash, and Charles Bangert. The time is now 11:20.

I believe you have had a chance to look at this brief statement that was typed up and attempts to advise you of the rights that you have. Obviously, we are here because the newspaper reports indicating that there was an attempted destruction of some federal records and if this is true, this could possibly entail a criminal violation, and since there was a request for those documents outstanding from this subcommittee, it could also possibly involve a contempt of Congress citation. So, that's why we feel that it is proper for us to attempt to advise an interviewee of his rights.

A. Yes. I understand that Mr. Bangert. Could I ask a couple of questions before I sign this waiver?

Q. Right.

A. Can you explain to me the authority for this investigation?

Q. The authority for this investigation is contained in the Senate Antitrust Committee's general resolution, the content of which cited the Senate Antitrust Monopoly's coming endeavor to investigate oil and gas shortages in the context of attempting to determine whether or not there are any antitrust violations of law. As you may know, Senator Hart wrote Chairman Nassikas a letter dated June 11, 1973, indicating that he had instructed staff of the Subcommittee to commence an immediate investigation, to interview all Federal Power Commission personnel and members, examine all documents and files necessary and appropriate to ascertain all facts bearing on this question. Chairman Nassikas in a letter dated June 14, 1973, indicated that he would cooperate with the investigation, but he put some "caveat's" in there with respect to the manner in which the investigation would be conducted. There were negotiations between the staff of the Senate Antitrust Committee and the staff of the Federal Power Commission—namely, the executive director and the general counsel. We then received an additional letter from Chairman Nassikas dated last Friday, I believe, June 15, in which Chairman Nassikas agreed to cooperate with the investigation under the conditions laid down in Senator Hart's first letter.

A. Yes, I am generally familiar with that correspondence. I was asking about the authority just to have a clear idea of just what rights I am surrendering, what conduct I should follow in this interrogation. Is it correct to say that the investigation is being conducted under the direction of the Chairman of the Subcommittee?

Q. That is correct.

A. And that the scope of the investigation is pretty much described in the language you read earlier in the letter from Senator Hart to Chairman Nassikas?

Q. That is correct.

A. Could you tell me whether the record of this interview will become part of a public record?

Q. The interview will be made available to the Senate Antitrust Monopoly Subcommittee and the Subcommittee will have to determine whether or not the interview will be released. Staff has no authority one way or another to release it or do anything else with it. The determination will be made by the Subcommittee.

A. By the Subcommittee rather than by the Chairman himself?

Q. That is correct.

A. Because I gather from our earlier conversation that actually the investigation is under the Chairman's authority rather than under the full Subcommittee's action.

Q. It is under the Chairman's authority. However, the Chief Minority member of the Subcommittee, Senator Hruska, has been advised of the investigation, the minority staff has been invited to cooperate in the investigation, to sit in on all interviews, they have decided that they will not at this time.

A. Well, Mr. Bangert, I do not see any reason to object to signing this form, and if you want me to do so, I will. . . . Maybe I'll keep an extra just for my own record.

Q. Let me just read to you from Title 18 of U.S. Code, Crimes and Criminal Procedures, Section 1001:

"Whoever in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies and conceals by any trick, scheme, or device, a material fact, or makes any false, fictitious, or fraudulent representations, or makes or uses any false writing or document which contains any false, fictitious statement or entry, shall be fined not more than \$10,000, and imprisoned not more than five years or both."

I'm going to ask you a series of questions, Dr. Wald, that are meant simply to elicit as much information as we can surrounding the circumstances of the alleged destruction of documents. The questions that we ask are not intended to imply any innuendo, any accusation. It's simply a matter of attempting to fully elicit the circumstances surrounding this alleged attempt to destroy documents.

A. I understand.

Q. Would you please state your full name and address for the record?

A. Haskell P. Wald, 9528 Friars' Road, Bethesda, Maryland.

Q. And would you also state the present position held by you at the Federal Power Commission?

A. I am Chief of the Office of Economics and chief economist to the Federal Power Commission.

Q. How long have you been with the Federal Commission?

A. I assumed my present position on July 1, 1963. In another two weeks, I will be there ten years.

Q. What was your position before becoming chief economist?

A. Immediately before becoming chief economist, I was with the Treasury Department in various—several offices, including the offices of tax analysis and financial analysis.

Q. How long were you at Treasury before coming to the Federal Power Commission in 1963?

A. I was approximately one year at the Treasury Department. Before that I was seven years with the Federal Reserve Bank of New York.

Q. How many years at the Federal Reserve Bank?

A. Seven years.

Q. Was that your first employment in government?

A. No. I had a number of positions in government starting in 1938 with the Board of Governors of the Federal Reserve system, and then I moved to the Treasury, where I served during the war period, and later I moved to the Department of Commerce as an economist, and then following that I was with the National Security Resources Board, and then I became an economist on the staff of the Council of Economic Advisers.

Q. Is it correct that your sole profession and employment has been in government?

A. For a short period I was employed by the Harvard Law School as a Research Associate. That was in the period from 1953 to 1955.

Q. How did you first obtain your employment with the Federal Power Commission as chief economist in 1963?

A. My name was proposed to the then Chairman, Mr. Swidler, and I was invited for an interview and was offered the position. I had no contact with the Commission prior to being approached by the Chairman to come over for an interview.

Q. Do you recall who submitted your name to Mr. Swidler?

A. I can only surmise because I do not recall that I was told directly, but I assume that my predecessor, Harold Wein, included my name on a list of candidates.

Q. So we understand the relationship of the Office of Economics to other offices and the chain of command system involved, could you describe your view of the relationship of your office to the other offices and in particular with respect to the chain of command upwards through the Commission?

A. The Office of Economics is one of five major components—staff components of the Commission. Each head of these components has a responsibility of advising the Commission. We are coequals in the sense that our grades are all at the top super-grade level and we all have access to Chairmen and the other Commissioners and are all participants in the Commission's regular meetings. Mr. Nash, did you want me to describe the functions of the office?

Q. That would be my next question, so you may proceed.

A. I would say that our primary function is a research function, and this distinguishes us from the other offices of the Commission. To perhaps oversimplify, let us say that our interests tend to be concerned with analysis of policy and I would say that the other offices tend to be concerned more with the implementation of policy. Our research is used in various ways. We sponsor economic witnesses in proceedings before administrative law judges. Since I am chief economist of the Commission, I have the responsibility for advising the Commission on all policy issue before the Commission. We, of course, analyze rule-making pro-

posals and legislative proposals and advise the Commission on those matters. We try to orient our economic research so that it focuses on the issues which we think will be emerging before the Commission so that we will be prepared to provide advice. We also provide what you might call "technical assistance" to the Commission, in terms of analyzing evidence presented in proceedings, and analyzing responses to rule-making, and we will, when requested, participate in drafting material which the Commission will use in its own formal opinions and in its orders on rule-making.

In addition, we have a number of "miscellaneous" activities, in terms of helping with speeches and some correspondence. Several of our staff people have responsibilities in connection with the National Gas Survey and the National Car Survey, where we are serving on various task forces and committees. We have some inter-agency responsibilities in terms of meeting with other agencies who have an interest in energy matters.

I think that gives you a general picture. I might add that we also have one other responsibility and that is the clearance of the Commission's report forms with the Office of Management and Budget.

Q. You contrasted somewhat the function of the Office of Economics with the function of some of the other bureaus and offices at the outset by indicating your office has a major analysis and assessment of responsibility vis-a-vis Commission policy and the other offices' responsibility is to implement such policy. Is that a fair characterization?

A. That was an oversimplified contrast, but that is the way I would contrast both offices.

Q. What would you say represents the single most important policy determination going on within the Federal Power Commission today?

A. I would say that the regulation of gas producers is the most important single policy issue, and I would add that I think it has been the most important policy since my arrival at the Commission ten years ago.

Q. What would you consider the fundamental prerequisites to be in order to make sound policy judgments respective of the regulation of natural gas?

A. You've asked a very difficult question. I don't think I was prepared to get into a broad question of that sort.

Q. Might I try to explain what I mean and try and clarify the record in terms of the kind of information that you might believe is necessary for sound policy judgment to be made? Would you consider a fundamental prerequisite to complete the assessment an understanding of industry structure? Would you consider an understanding of present natural gas reserves supply situation to be necessary? Would you consider an understanding and assessment of the elasticity of supply, price, things like that—I want to know what in your judgment is a prerequisite for making a sound policy judgment respecting which way to go to get us out of this supply problem?

A. Well, you've been very helpful to me in reminding me of the important considerations in understanding the problem of regulating gas producers. Yes, I would identify the structure problem in the industry as quite fundamental in making decisions on how to regulate industry. I would, of course, highlight the elasticity question which you mentioned, presumably referring to the estimated response of gas supply to prices which we fix.

But, let me explain the gap between what would be ideally available to do a perfect job in regulation and what we now must live with is very wide. You had mentioned reserve data, which, of course, are quite fundamental, and yet the type of reserve data which we would need, which we would like to have in order to have the best possible answer on what the ceiling price should be—such data is probably impossible to obtain, and just to explain the matter briefly: we have time series for reserves—for proved reserves; and we have time series for drilling activity and for expenditures on drilling. But, we have no way of relating the drilling to results from particular activity in drilling. The reserves are not related to fields and do not have the drilling and the expenditures made on those fields, so that it is very difficult to arrive at estimates of cost. The fundamental problem, I would say, in regulating gas producing, is the weakness in our cost information.

Q. Now, does this weakness exist because, as a professional matter, one cannot derive such information, or does this weakness exist because the Federal Power Commission has not required that the cost shall be so stated?

A. Such weakness exists because the Federal Power Commission has attempted to rely upon, let us say, short-cut approaches to estimating costs and the Federal Power Commission has felt that these compromise approaches were adequate. Now, I would say, that during the period of 1960's, the Federal Power Commission probably was correct in that type of judgment. I make that statement because we did not have a gas supply problem then and the effect of the Commission's regulation was pretty much to validate the going market prices for gas, so that we were not cutting back on new gas prices and you could assume that the market prices were reasonably closely in line with costs, and that situation really was no need to have a full-scale investigation of the industry's costs, because such an investigation would be very expensive, time-consuming, and in that situation that prevailed in the first half of the 1960's, I would doubt that it could be justified.

I think that the situation has changed very drastically since then and I think now I would welcome and would advise the Commission, and I have done so, to undertake a much more professional way of analyzing industry's costs.

Q. To the best of your knowledge has the Commission embarked upon the investigation that you have indicated you recommended?

A. The Commission is still adhering to the cost approaches which were adopted in the Permian area rate case, and which have been affirmed by the Supreme Court. This gives me an opportunity to voice a long-standing complaint of economists and probably of all regulatory commissions, and that is that it's very difficult to overturn precedent. When you have a cost formula that's been approved by the Supreme Court, the Commission feels that it is obligated to stick to it even though it is quite obvious that it is a very inadequate approach to costing.

Q. I see. Well, in your judgment, Dr. Wald, why don't you consider the Commission's optional pricing approach to be an adequate response to your recommendation for a change in costing practices?

A. The only litigated case which has been completed by the Commission under optional pricing is the Belco decision which was issued a few weeks ago. I think that decision displays the problems of costing and the problems which we're discussing because in that case, the majority was able to demonstrate that the cost of gas was above 45¢, which was the rate the majority approved. The Chairman, who was a dissenter in that decision, argued strongly that the cost of gas was probably less than 35¢. The range of costs actually is much wider than that in most of our proceedings, so that optional pricing which is tied to the Permian type costing gives excessive leeway to the participants to justify a wide range of costs and I find that in that circumstance the cost evidence is valueless.

Q. I take it then, you're advocating a field-by-field, well-by-well unit cost approach, is that right?

A. I am advocating a sampling of costs for particular wells or particular reservoirs, that is, an experience cost where we would have all the inputs to the development of a particular reservoir and we would have all of the outputs.

Q. When was the last time the Commission had obtained unit costs, to the best of your knowledge?

A. To the best of my knowledge, the Commission has never obtained unit costs in the framework that I described it.

Q. Let me backtrack a little bit to some of the prepared introductory questions which we need for the record, and then I'll get back to the substance that we followed on that basis. . . . In addition to the compensation which you receive from the Federal Power Commission, Dr. Wald, do you have any other sources of income, such as stocks, bonds, etc.?

A. Yes. I am the owner of some stocks and bonds. In accordance with the Commission's rules, I have carefully avoided acquiring any stocks or bonds of companies under the Commission's regulation.

Q. Yes. That's the point of the question I meant to ask for the record. And do you have any vested or unvested pension rights, insurance plans, retirement benefits, or other financial arrangements arising out of previous employment or from sources other than your own personal financing, excluding your previous government employment?

A. I have no such rights.

Q. Do you have any relatives working in or for or representing in any capacity the oil or gas industry?

A. I do not.

Q. Did you ever receive any honorariums, gratuities, transportation expenses, gifts or any other thing of value, more than \$10 in value, from the oil or gas companies' officials or representatives?

A. The only occasion where I might have received something falling into that category would be when I took a field trip to Texas in 1964 and I was transported to an off-shore gas well on a company helicopter to inspect a gas well and to learn a little more about off-shore operations.

Q. Was that in connection with your official duties with the Federal Power Commission?

A. Yes, that was part of my official duties and really part of my breaking-in period because I had never seen a gas well until that trip to Texas.

Q. Were you accompanied by other persons?

A. I was accompanied by another FPC staff man and also, I believe, by an official of the oil company.

Q. And was this trip approved by your superiors?

A. This trip was arranged by the Commission and approved by our superiors.

Q. Are you a member of the American Gas Association?

A. No, sir, I'm not.

Q. Prior to your appearance here this morning, have you discussed your anticipated appearance here with anyone else whatsoever?

A. I have discussed my appearance with my secretary, since she took the call setting up my appointment. I have discussed my appearance with other members of this office simply in terms of telling them when I was scheduled and learning when they were scheduled.

Q. Do you mean the Office of Economics?

A. In my Office of Economics, yes, sir. And I have had a brief exchange with our executive director telling him of the scheduled date on last Friday, and I believe also that I mentioned to the Chairman that I had been scheduled for last Friday because there was a conflict between a conference with the Chairman and the date which you had assigned to me. I have not discussed any substantive matters which I assume will come up during the course of our questioning.

Q. In discussing your appearance here with your own Office of Economics staff members did you at all, or did they at all exchange views respecting any substantive matter?

A. The only information we exchanged was the confirmation of certain credible dates in our negotiations with the Bureau of Natural Gas on obtaining the information which was the subject of this inquiry.

Q. And your effort or their effort, whichever the case may be, to confirm such dates, were such dates independently and unanimously confirmed by all those you discussed such dates with?

A. We encountered no conflicts in our recollection of the dates. I would say that some dates were confirmed by memoranda or notations, and therefore are factual evidence. There were other dates involving conversations where I did have to check with Mr. Wilson or perhaps Mr. Schwartz just to refresh my own memory as to when such conversations occurred.

Q. Did your memory prove correct or faulty after discussing the matter with such persons?

A. I think my memory was correct. I'm not aware of any conflicting recollections on when certain recollections were held.

Q. Could you please state for the record the persons within your office with whom you discussed such matters?

A. Yes. I had discussions with Mr. Schwartz, who is assistant director of the office and Mr. Wilson, who is chief of our division of economic studies. I also had a discussion with Mr. Kofkin, who works under Mr. Wilson and who was the man who had immediate responsibility for compiling the data requested by Mr. Wilson.

Q. When did these discussions take place?

A. These discussions took place last Thursday and Friday and also on Saturday.

Q. Now, with respect to the executive director, Mr. Maxson, when did your discussion take place with him?

A. I believe the only discussion—I hesitate to call it a discussion, because it was a brief exchange alerting him to the fact that my appointment had been changed—I believe that that exchange took place Friday afternoon after Mr. Maxson returned from his session with you.

Q. Who initiated that interchange?

A. I initiated it and I believe the exchange lasted for the duration of an elevator ride from the ninth floor to the first floor.

Q. Did Mr. Maxson at all indicate to you the nature or substance of any questions asked in here or any answers provided by him?

A. He certainly did not indicate the nature of any answers provided by him. His reference to the substance was very, very minimal, and I think the only substantive matter that he mentioned was in terms of questions about the Office of Economics, with a very brief reference suggesting that the scope of your inquiry is actually broader than the alleged destruction of documents.

Q. So the record is clear are you stating that, with respect to at least questions pertaining to your office of economics, Mr. Maxson informed you that such a topic was the subject of questions?

A. Mr. Maxson indicated that he had been questioned on the role of the Office of Economics and as a result of that information, I did outline the functions of the office and used that material in answering your earlier question.

Q. Did Mr. Maxson suggest to you how you should respond to any question?

A. No, he did not.

Q. Did he suggest to you that any part of your testimony should be altered or limited before us?

A. No, he did not.

Q. Would you please relate the substance of your conversation with the Chairman?

A. My conversation with the Chairman was simply to tell him that the 1 o'clock appointment which had been scheduled for last Friday had been canceled and to assure him that therefore we could go ahead with the conference which he had wanted me to participate in on Friday.

Q. Was the subject of your projected interview discussed with the Chairman?

A. It was not discussed with the Chairman.

Q. Did the Chairman suggest that you alter or limit your testimony before us in any way?

A. He did not. . . . Mr. Nash, let me add one factor that seems to be related to this line of questioning, and that is that I did receive a written instruction from the general counsel indicating that we are not permitted to divulge confidential data.

Q. Are you aware of any oral or written communication given to you or any other past interviewee respecting a reporting back to anyone concerning the substance of the interview?

A. I have not been alerted to the fact that I would be expected to report back. No one has indicated to me that that was expected.

Q. You were requested, I believe, on the telephone, during a conversation in which you were asked to come to the offices for an interview, "to bring with you today all writings of any nature whatsoever, including diaries, logs, and telephone conversations referring or relating to the use or disposition of the documents involved in the alleged attempted destruction," is that correct?

A. That is correct.

Q. Did you fully comply with that request?

A. I did. I could not find any records of telephone conversations, because we do not have a practice of recording telephone conversations. I could not find any notations in my secretary's notebook—I should say, my secretary could not find any records of telephone conversations related to a matter under review. I have assembled from my own files a few documents which I am prepared to make available to you if you think they might be relevant.

Q. I take it, then, that you endeavored to comply with such request by trying to recollect what the documents might be, by reviewing the files, and by reviewing telephone logs and by looking through the secretary's notes, is that right?

A. That is correct. I made a complete search of our files in this area and I instructed my secretary to examine her daily record book to see if she had noted any meetings or telephone calls that seemed to be related to the subject we're discussing.

Q. Now, a moment ago you indicated a limitation on what you may produce because of some communication from someone, so is it fair for me to conclude that—and we'll get into it document by document in a moment just for the record—is it fair for me to conclude that you're not prepared to fully comply with the request to produce all documents whatsoever bearing on this matter?

A. I have been instructed not to provide any data compiled from the records we are discussing, that is correct.

Q. Would you please tell me who gave you such instructions and when such instructions were given to you?

A. On Friday a memorandum was circulated from the general counsel's office with this instruction. The memorandum was not specifically tied to this investigation or even to the documents under review, but was a general instruction indicating that when the Commission orders certain information to be confidential, that the staff, then, is not privileged to disclose such information without the Commission's approval.

Q. Has such an instruction been made orally to you or is it written?

A. The instruction is in written form but I do not have the text with me.

Q. Who was it from?

A. It was from Leo Forquer, the General Counsel.

Q. Was that produced to the best of your knowledge to any one else in your staff?

A. To the best of my knowledge, it was sent to various people in the Commission. I know that Mr. Wilson received a copy and I gave my copy to Mr. Schwartz. I do not know whether he received a copy directly.

Q. Let me show you Wilson Exhibit No. 10 and let me ask you if this is the instruction to which you refer?

A. This is the instruction to which I refer, and I see that I had routed it to Mr. Wilson and Mr. Kofkin, as noted on this copy here.

Q. Is that the only instruction you have received with respect to production of documents for the subcommittee?

A. That is the only instruction I received.

Q. Did Mr. Maxson ever discuss with you what you should or should not produce for this subcommittee?

A. I did raise one question with Mr. Maxson because of the instruction received from the general counsel. The question concerned the covering memorandum for data which are confidential, and I had asked if it would be appropriate to provide this group with the covering memorandum, and his response was that it would be.

Q. On what basis did you interpret Wilson Exhibit No. 10 to apply to this subcommittee investigation?

A. The subcommittee investigation concerns confidential data, and this memorandum from the general counsel is concerned with confidential data.

Q. You indicated that this was a general memorandum, and I wanted to know if any additional basis existed for you to assume it meant to maintain and restrict documents being produced for the Congress?

A. The timing of the memorandum indicated to me that it was prepared in view of the prospective interrogation of various staff members.

Q. Did you attend the Commission meeting of this past Thursday?

A. I attended this past week's meeting. However, I'm uncertain if Thursday was the date.

Q. Whatever the date was, at the Commission meeting you attended last week, did the Commission vote to keep such information confidential from this Committee?

A. There was no discussion of this information while I was present at the meeting. I should indicate that the Commission will often hold administrative session after the regular session. I did not participate in the administrative session last week.

Q. For the record, will you please supply the subcommittee now with such documents as you have found upon searching your files in compliance with Mrs. Barrio's request?

A. I will be pleased to do so. I think it will be best for me to try and provide the documents in chronological order and perhaps explain the documents. My impression is that you have copies of perhaps one or two of these and you may not need to have duplicates, but I will follow your guidance on that.

Q. For the record, it might be best just to produce it nonetheless so as to show you have completely complied with the request to you.

A. Yes. . . . The first document I discovered in my search of my files is the memorandum from Mr. Joyce, Chief of our Bureau of Natural Gas, forwarding composite information on uncommitted reserves for the four largest and eight largest producers. This memorandum was prepared in response to a request from our office to the Bureau of Natural Gas for information on these concentration ratios. The memorandum is dated March 21, and attached to Mr. Joyce's memorandum is a note which I sent to Mr. Wilson following Mr. Joyce's memo-

randum. As you know, Mr. Wilson had requested this information and my role here was pretty much as an intermediary, receiving the information and passing it on to Mr. Wilson, who was to use this information.

Q. Let the record show that we'll mark this as Dr. Wald Exhibit #1 and #1A.

A. My second document, and I see that it is really my only other document, is a memorandum from Mr. Kofkin to Mr. Wilson, Chief of Division of Economic Studies, reporting that he had discovered errors in the information provided by the Bureau of Natural Gas and also errors in the data released to the public in the first press release, as of Feb. 22. In Mr. Kofkin's memorandum, he explains that he has asked the Bureau of Natural Gas to verify the data and he was told by Mr. Mangen that "all records were destroyed last week and it is impossible to verify the source of the error."

I have attached to Mr. Kofkin's memo a note which I received from Mr. Wilson, and it is a hand written note addressed to both Mr. Schwartz and myself, indicating that he is disturbed by the inability of the Bureau of Natural Gas staff to verify the data and ending up by asking whether we could obtain the data and make our own verification. This handwritten note also has a note from Mr. Schwartz. I explain that because Mr. Schwartz had signed it just with the initials "D. S. S." indicating that he agrees with Mr. Wilson that it is unfortunate that he is unable to verify this data.

Q. Are any—is any of the material you just referred to dated, and if so, would you state the dates, please?

A. Yes. Mr. Kofkin's memo is dated April 6, 1973. Mr. Wilson's memorandum is not dated. I have added to Mr. Wilson's note the explanation in parentheses attached to the memo from Kofkin 4/6/73.

Q. Does that mean that, to the best of your knowledge, you received it April 6?

A. I would say that I received it perhaps April 7th.

Q. Do you know the date on which it was prepared by Mr. Wilson?

A. I would assume it was prepared either on the 6th or the 7th.

Q. For the record, we'll mark these exhibits Wald Exhibit 2 and 2A. Do you have any other documents, Dr. Wald, to supply to subcommittee pursuant to your compliance with the request for all documents bearing on this matter.

A. The only other documents I have are documents which I am confident are in your own file, since they relate to the correspondence between Chairman Nassikus and Chairman Hart, and also a letter from Mr. Joyce to Senator Hart. This is a letter dated March 20, which I'm sure is in your possession.

Q. May we look at that letter for a moment, please?

A. Thank you.

Q. Thank you. Let the record show that Dr. Wald is handing me a letter. . . . If it's all the same to you, Dr. Wald, we would like this March 20, '73 letter to Chairman Hart from Mr. Joyce for our record, and if you like, we could make a photostatic copy of it and return your copy or if this is an extra, we might just keep it, whichever you prefer.

A. I would prefer for you to make a copy of it because that is my only copy.

Q. We'll be happy. Let the record note that this will be Wald Exhibit 3. Let me show you page three of Exhibit 3, Dr. Wald, particularly everything contained on that page after the closing: "Thomas J. Joyce, Chief, Bureau of Natural Gas" and you know, we have a bunch of initials and dates and names. Now, I'm not all that familiar with FPC practice. Could you describe for the record what the initials and names mean, with particular reference to who prepared the response to this letter and who received copies of the response to the Chairman's letter?

A. You can understand that I had nothing to do with this letter when it was prepared back in March.

Q. Were you aware at all prior to the submission of the letter on March 20, that Chairman Hart made a request for such data?

A. I was aware of the incoming letter from Senator Hart, since it is the Commission's practice to send copies to office chiefs. I had not seen the reply until, let us say, ten days ago, or perhaps even more recently than that.

Q. Prior to such time were you aware of the reply to Chairman Hart's request?

A. I was not aware of the reply to Chairman Hart's request. . . . You had asked about initials here. First it says: "Carbon copy to each Commissioner," and then it lists all of the offices which receive copies.

Q. Which offices were they?

A. Office of Secretary, Bureau of Natural Gas, Bureau of Power, Office of Accounting and Finance, Office of Economics, Office of General Counsel, Office of Public Information.

Q. Who in your office got it that you were not aware of it, do you know?

A. I would assume that the letter came to me. I could not explain now why I was not aware of it. I just assume at the time it did not seem a particularly vital matter, and perhaps with all the incoming material, I did not pay close attention to it. I do not say for certain that it did arrive in our office, but I am willing to assume that it must have arrived, since it does indicate that a carbon copy—also, a copy did go to the Office of Public Information, and I assume therefore that it was a public information file and that I could have access to it if I was that interested.

The other names are: Mr. Goldstein, who was Assistant General Counsel; Mr. Purdue, who is our Assistant General Counsel; Mr. Mangen, who is in the Bureau of Natural Gas, the custodian of the data we are discussing.

The letter seems to have been drafted by Mr. Mangen—I do not know the secretary's name. Her initials appear here. The letter also indicates it was circulated to all Commissioners on March 21.

Q. Does it indicate whether the letter was approved as written *before* it was sent—I mean, approved by the Commission or the Chairman before it was sent from Mr. Joyce to Chairman Hart?

A. I do not see any indication that it had been approved by the Chairman or any Commissioners.

Q. Were you furnished copies, Dr. Wald, with the letter to Chairman Hart from Chairman Nassikas of June 14th and June 15th respecting Chairman Hart's decision to investigate the alleged destruction of certain material?

A. I received copies, yes.

Q. May I look at the copies of Chairman Nassikas' response to that for a moment?

A. I have a response from Chairman Nassikas of June 12.

Q. I may have had my dates mixed up there. Thank you.

A. I also have a response of June 14 . . . (goes through papers).

Q. If you have no objection, Dr. Wald, we think we'd like to receive these for the record as well and make copies and give you back your own personal copies. For the record, we'll mark the Chairman's letter of June 12 as Wald Exhibit 4 and we'll mark the June 14 letter from Chairman Nassikas as Wald Exhibit 5.

Q. Dr. Wald, would you kindly look at Wald Exhibit 4, the June 12 letter from Chairman Hart to Chairman Nassikas, particularly the names and initials on the bottom of page two of the letter, and tell me who received copies of it and who prepared the response if you can so discern from the letter?

A. The letter notes that a copy went to central files for public files and also to the Office of Public Information for public files. It then says, "Inter-Office files; Mr. Webb, who is Director of OPI; each Commissioner; Chairman; Executive Director; Mr. Forquer, who is General Counsel; Mr. Phillips, who is Chief of the Bureau of Power; Mr. Wald, who is I; Mr. Joyce, Chief of Bureau of Natural Gas; Mr. Brennan, Acting Chief of Office of Accounting and Finance"; and then it says "legislation" and I would assume "legislation" refers to the Assistant General Counsel, who is responsible for legislative matters and who would normally be Mr. Goldstein. I do not see any other initials on there as to the author of the draft. The only other notation refers to the enclosures with the letter.

Q. I'll ask you the same question with respect to Wald Exhibit 5—namely, the letter from Chairman Nassikas to Chairman Hart dated June 14.

A. This letter indicates that the draft was prepared by Mr. Diener, who is an assistant to Chairman Nassikas. The distribution was to the public files. OPI, each Commissioner, executive director, the Office of Economics, the Office of General Counsel, the Bureau of Natural Gas, the Bureau of Power, the Office of Accounting and Finance, secretary's office, and "legislation," which I again assume refers to the Assistant General Counsel in charge of legislation. I do not see any other notation on it except for the typist, whose name indicates it was typed in the Chairman's office.

Q. Thank you. We'll return these to you upon xeroxing. . . . Dr. Wald, since you attend Commission meetings, perhaps you can shed some light on how it came about that Chairman Hart's letter of March 7 was responded to by Mr. Joyce rather than by the Commission?

A. Mr. Nash, Chairman Hart's letter was never discussed at a meeting at which I was present. I have no information that would help in answering that question.

Q. Thank you. . . . Would you state as specifically as possible for the record, the identity of the documents which your search has turned up but which you are precluded from giving us because of the instruction received from your general counsel, Mr. Forquer?

A. The only document which my search turned up and which I do not feel privileged to provide is a Table, one page Table, showing the volumes of uncommitted reserves reported by the four largest respondents and the eight largest respondents. I should add that this is the document which we worked with and decided the information required verification because it seemed to be inconsistent with aggregate data in our press release on uncommitted reserves.

Q. Does such document you just referred to contain the names of any companies or the amounts of reserves controlled by any single company?

A. No, there are no names of companies on our document. Our office had never requested information by company name.

Q. Does the material set forth on such document contain solely aggregates with respect to control of reserves?

A. It contains aggregates arranged by FPC pricing areas.

Q. Is it correct that such document would not enable the reviewer of such document to ascertain the identity of the companies respondent?

A. That is correct.

Q. Now, you say that the material supplied contained certain errors, Dr. Wald. Can you be certain whether the errors exist in the material supplied to you by the Bureau of Natural Gas rather than the public release issued by the Commission on or about February 22, in which it is stated "natural gas reserves declined by about 9%"?

A. The memorandum from Mr. Kofkin indicates that there appears to be some errors in the data in the news release. Mr. Kofkin could only speculate on the reasons for the errors, and he states that he assumes that the errors were due to incorrect addition.

Now, I should explain that my involvement in the matter is quite peripheral to the activity because we maintain a separation between the litigation staff in the office and my role as adviser to the Commission. Mr. Wilson's intended use of this data was for his cross-examination in the Belco proceeding. Since he was a witness in that proceeding, I was completely separated from the preparation of his testimony and for any material he was assembling for cross-examination. So that, I did not make any analysis of the data received from the Bureau of Natural Gas. I had no discussions with Mr. Wilson or Mr. Kofkin on the nature of the errors. I felt that it would be improper for me to get involved in that material since it would be provided as evidence in the proceeding.

Q. I understand that. Based upon the information that you presently have acquired to date, can you state whether the available information is sufficient to ascertain what errors were made in the Bureau of Natural Gas compilation for your office, or in the public release of Feb. 22, and for the record let me correct my prior statement wherein I indicated such Feb. 22 release indicated a 9% decline in reserves. That statement was incorrect. Such Feb. 22 release indicated a 26% decline in reserves.

A. I have no basis for speculating whether the errors were in the compilation provided in answer to Mr. Wilson's request or whether the errors were in the compilation from the initial press release.

Q. Do you have any personal knowledge, Dr. Wald, as to whether the documents that were attempted to be destroyed actually exist today? That is, have you reviewed them, have you seen them?

A. I have not seen them. My only knowledge comes from the press report which claimed that the torn documents had been patched together and the documents had been recovered. I have not attempted to verify the accuracy of those press reports.

Q. The errors referred to by Mr. Kofkin and Mr. Wilson, were those errors in your view, significant errors?

A. They were significant from the standpoint of computing concentration ratios, because in at least one case, the eight company holding was larger than the aggregate for all reported uncommitted reserves in one area, and I think it was that type of inconsistency that alerted Mr. Kofkin to the problem with the data.

Q. I can understand why that would be viewed as significant by anyone. In the context of the Belco proceeding, Dr. Wald, in which well head prices of natural gas were increased approximately 73%, do you consider the intended use of the

information by Dr. Wilson to be significant to the recent decision of that proceeding?

A. In my opinion, the intended use could not have been significant, and perhaps it would be helpful if I explained why I personally have not attached major importance to these data on uncommitted reserves. I think that this matter is fundamental to our whole discussion.

You may recall that the first survey on uncommitted reserves was undertaken by a Commission order in 1970. The survey was started, it seems to me, to disprove the claim that there had been withholding of gas reserves. I might say that the answers from the survey had been pre-judged, because prior to the survey, the Commission and various administration officials had dismissed the argument about withholding very clearly. The companies who were included in the survey knew very well what the survey was all about. I would say, under such conditions I could not have confidence in the data reported by the companies on uncommitted reserves. I would expect the companies to interpret instructions so that the answers would conform to the argument they were making that the shortage was a real shortage rather than a contrived shortage.

Now, it was clear that the Commission was not prepared to do a thorough policing of the reporting, to do a thorough investigation of all of the properties held by producers and the status of these properties—whether they were committed for sale or whether they were near completion so that they could be producing in a short time. I was also, you might say, upset at the fact that the survey seemed to be directed at a misinterpretation of the withholding argument that our office had made and outsiders had made. I would say that the problem of withholding gas from the interstate market is not so much a problem of withholding reserves that are produced that are immediately available for sale, but it's more of a problem of withholding investment and withholding effort in drilling, and when the price situation is uncertain and when there are pronouncements that existing ceiling prices are too low, I would expect many producers to withhold investment funds on the assumption that this is not the best time to complete their leases and to bring their product onto the market. So that, in my view, the information on uncommitted reserves wouldn't be of critical importance as far as answering this very important question about the responses of producers.

I would also add that the survey was not really designed in a statistically satisfactory manner. For example, the definition of reserves tied in with the AGA definition of proved reserves and this definition permits considerable leeway on the estimator's part as to how much he's going to report. Also the definition indicated that the producers need not report reserves which they were retaining for their own company use. It seems to me that an exemption of that sort again provides leeway for companies to decide how much do they want to report as immediately available for sale. The fact that the uncommitted reserves information was not tied in to other information which could be subject to check from public sources concerned me. Ideally, we would need to have from each producer his total reserves, the amount dedicated to interstate commerce, the amount dedicated to intrastate purchasers, the amount set aside for their own company use, and then the remainder which would be available for sale. That type of aggregate picture of the reserves data was not provided by the survey and I therefore felt that the survey really was not sufficiently reliable to provide a basis for economic analysis of any real significance in this controversy over pricing of natural gas.

Q. I appreciate that, Dr. Wald. Allow me to ask you, if you will, if you were consulted by the Commission or anyone else within the Commission respecting the format of the survey prior to its submission to the companies.

A. I was present at the Commission when the format was approved and adopted in the rule-making. I was not consulted in advance of the material's being placed on the Commission agenda. I did not participate at all in the preparation of the questionnaire and my advice was not sought.

Q. When you were at the Commission table when the material was presented to the Commission, did you then advise the Commission of your concern respecting the usefulness of the data sought?

A. I did not and I assume that this does raise questions. I think it should be clear that there's a limit to the number of things which can be objected to at Commission meetings, and as I recall, when this matter came before the floor of the Commission meeting, the decision had been made to go ahead with

this survey and that the form of the questionnaire had been agreed upon and that any objection at that point would merely incur anger from people who were anxious to move ahead with it.

Q. Does that mean, then, that for practical purposes, the questionnaire had been informally agreed upon before the formal acceptance on that date by the Commission?

A. I do not know the steps that were taken in preparing the questionnaire. In a sense, most material that comes to the Commission meeting agenda has been agreed upon informally because someone prepares something and submits it for the meeting. We receive it ordinarily two days ahead of time and we have time to study it. At the moment, I cannot recall how much prior to the meeting I saw the questionnaire.

Q. Thank you. Can you tell me who was responsible for preparing the questionnaire as it went out, who were not persons in *your* office of economic studies?

A. I do not really know the answer to that question. I have not researched it. It is my recollection that the first questionnaire was in the context of the South Louisiana proceeding, AR69-1, and I would assume that the questionnaire used in that proceeding was then used in subsequent surveys—an identical questionnaire. The questionnaire for the proceeding was probably prepared by the staff counsel in consultation with engineers from the Bureau of Natural Gas, but I do not have that information on how that was developed.

Q. Does that mean you do not know the extent to which Mr. Mangen and Mr. Joyce participated?

A. I do not know their role, no.

Q. Do you know whether Mr. Gooch participated?

A. I do not know. I would assume he did, because he was the driving force in the South Louisiana proceeding.

Q. What do you mean by the driving force in that proceeding?

A. He was the staff man who controlled the Commission staff participation in that proceeding.

Q. Did personnel from *your* office participate in that proceeding?

A. We participated in the first phase of that proceeding. I am trying to recall the chronology. We had sponsored a witness on supply elasticity, but that well proceeded this survey. We were not active at this stage when the survey was undertaken.

Q. When the survey was undertaken, then, are you suggesting that the proceeding and the survey were each handled by Mr. Gooch and other persons from the Bureau of Natural Gas?

A. I think that what you say is correct, but I do not want to leave the implication that we were barred from participation. I think that if our staff people felt that this was an important matter and that they had something to contribute, they would have been permitted to contribute and perhaps influence the questionnaire that was used.

Q. Were the forms for the questionnaire there cleared with the Office of Management and Budget?

A. I was told that they were not cleared.

Q. In light of your answer respecting the background and procedure for R-405 indicating that 26% decline in reserves, so the record is clear respecting procedure. Can you tell me whether the procedure utilized in connection with the National Gas Reserves Study of May, 1973, was similar to that which you describe in connection with R-405?

A. No. There is no similarity between reserve data collected under R-405 and the independent reserve study which you are referring to. In the second instance, the reserve estimates were made by Federal Power Commission staff members. They used all the information they could gather from companies and from public information sources on wells and well characteristics and then they made their own reserve estimates. So that, it was not a case of reporting reserves by the companies, which is the case we're discussing here.

Q. Was the procedure and methodology utilized in connection with the National Gas Reserve Study the same as utilized for reserve compilation by the American Gas Association?

A. It was *designed* to be the same, yes. . . . If you're referring to—when you say "procedures," if you mean "definitions," yes, that would be correct. But, of course, the estimating procedure was very different.

Q. Could you elaborate for me, please, somewhat more respecting the interpretation to be accorded the gas reserves study conclusion that reserves have been 9% less than recorded by the American Gas Association? The reason I ask that for the record is I was a little troubled by your answer that it was designed to utilize the AGA procedures and definitions.

A. I'm having trouble understanding your question, Mr. Nash. You seem to be asking about the reliability of the big reserves study, the National Gas Survey reserves study, is that . . . ?

Q. Yes.

That's it in a nutshell, and if you have any professional judgment to make respecting the significance and usefulness of it based upon the methodology used, it would be very beneficial.

A. As I read the final report of the staff group responsible for that study, there are two sources of errors in the study: one is the estimating error that is normal whenever you must estimate gas reserves. The company investigated will have a—could have a wide range of difference in their estimates. I believe the report says this 9% lower figure is within the range of the normal—we were discussing the two sources of errors in these reserve estimates. As I read the report it says that this 9% difference is within the usual range of error in reserve estimates. There is a second source of error and that is the sampling error. That would be in addition to this 9%. I do not know the estimate of the sampling error, but I think in general you would say that probably this 9% difference is not a cause to say there's a serious conflict in the two estimates. It is within the normal estimating range.

Q. In your judgment, should the fact that both the AGA reserve conclusions and the close proximity to such conclusions found by this gas survey be used to justify the conclusion that the natural gas reserves available are as reported by the American Gas Association? . . . If you don't understand what I'm driving at, I'm trying to relate this back to your statement of some thirty or forty minutes ago respecting your concern that no one has been making a proper study and looking at non-AGA defined type reserves.

A. I have trouble interpreting the AGA reserves estimate in relation to our own regulatory responsibilities. We are concerned with the accuracy of supplying the interstate market, and we know that the pipelines are unable to acquire adequate reserves at the prices which we are allowing. From my standpoint that is a sufficient indication that there is a shortage in the interstate market, and we are obligated to set prices which will permit the pipelines to acquire gas to meet their market requirements. This conclusion that there is a shortage and that the shortage is real, from a pipeline standpoint, is not at all dependent upon any figure that the AGA reports. I have difficulty knowing what to make of the level of reserves reported for 1970, which was the year covered by the survey, or any other individual year. I am very concerned about the year-to-year trend on reserves. Our national gas survey does not get into this question of year-to-year trends. I am very concerned that the figures since 1968 have been downward as reported by AGA. We do not know the reasons for the decline. We find that the decline indicates a lower productivity per foot drilled than an earlier period, but we have no corroborative evidence of a decline in productivity and we really need to have a better understanding of the variation of reserves from year to year, rather than the corroborating of levels in a given year, which really doesn't tell me very much.

Let me also explain that the problem with the level is that it's not broken down by "dedicated to inter- or intra-state commerce" or for other purposes, so that there is no tie-in at all with our Form 15 reserves or any other reserve information that would help us to verify the acceptability of the reported number.

Q. Are you suggesting that, then, that the evidence available to you so far is insufficient to draw a conclusion that the reserves reported are accurate.

A. I would agree that that is my view. I am unable to say whether they are accurate or inaccurate. You are referring, I guess, to the 1970 figure which has been re-estimated by the staff. I have no reason to doubt the accuracy of the staff estimate other than my concern that the AGA definition does provide a lot of leeway for the estimator. It's not the type of definition that a statistician, I think, would accept in a survey.

Q. With respect to the year-to-year trends that you consider to be more important than the single 1970 year reserves, are you suggesting that those trends as reported could have been artificially manipulated, that you have no evidence to corroborate the validity of the numbers produced?

A. We have no evidence to corroborate the sharp declines reported by AGA and we, as I read the AGA definition, it does permit enough room for the estimators to interpret their judgment according to their personal preferences for the years in which they are reporting. But, we do not know what specific instructions were given to the AGA committees and just how they interpreted these instructions.

Q. You indicated that your concern as a regular would be to have prices set at a rate sufficient to elicit supplies so pipelines can get the supply that they need. Now, if supply, which obviously is not going to the pipelines today, is being held back by producers to force a price hike, do you think that's a relevant concern of the regulatory agency setting price?

A. That would certainly be a relevant concern of our agency and the Department of Justice, I believe.

Q. What studies are you aware of being made by your shop or your Commission designed to ascertain whether such is the reason for the shortage?

A. Well, the only study is this uncommitted reserves study which we are discussing. As I indicated, I don't think that is a very satisfactory way of digging into this problem. I am not aware of any other studies in that area, and I might say that the Natural Gas Survey will investigate that question. The material I have seen so far, particularly the reports of the task force on gas supply, did not face that question at all.

Q. Are you suggesting they avoided that critical question?

A. They avoid that critical question and other related questions.

Q. Well, how relevant to what regulatory policies should be then, is the conclusion to date of that supply committee?

A. Well, I don't know what you're referring to in terms of "conclusion of the supply committee." They do not . . .

Q. The conclusions made from the studies made by that committee so far.

A. I submitted a letter to the supply committee—I believe it's called the Task Force—indicating my disappointment in the limited coverage of their report. My letter indicated that the committee had avoided all of the important questions on gas supply today.

Q. Well, is it fair for the staff of this committee to conclude that in your judgment the report of that committee is not very helpful towards formulating regulatory policy?

A. If you're referring to the report of the Task Force on Gas Supply, then that would be my view. . . . I assume you understand that the report of the Task Force is not the Commission report and that the Commission still has an opportunity to get into the area and provide its own helpful analysis of this problem.

Q. Yes, I'm confident that the Commission will review that report by the Task Force as well as your own critical comment of it and come up with a reasoned judgment.

You may be somewhat familiar with the fact that the Federal Trade Commission at Chairman Hart's request has undertaken an investigation of the accuracy and reliability of the reserves reported by the American Gas Association. Is that correct?

A. I have read that, yes, sir.

Q. Are you familiar with what that investigation is designed to establish?

A. At one time I read a rather long report from the staff of the Federal Trade Commission describing their activities in this area. The report was published in one of the hearings and so I think I have a general idea of what they are trying to do.

Q. In your judgment upon the conclusion of the Federal Trade Commission's investigation, will policy makers have a reasoned basis for concluding whether the natural gas reserves reported by the American Gas Association are reliable for purposes of formulating policy judgment?

A. I have had only one contact with the Federal Trade Commission staff carrying this responsibility. The contact was probably as long as two years ago and it was a contact where I participated in a joint meeting between members of the Federal Power Commission staff and the investigators from Federal Trade Com-

mission. I did not play much of a role in that meeting, and I have not had any contact since then. I have no indication that the Federal Trade Commission staff has detailed familiarity with the data problems that concern our office, and so I do not know whether they will really get at the questions we are interested in or not.

Q. Would one method in your view, Dr. Wald, to ascertain in reliability of present reserve reports be to subpoena internal books and records from individual oil and gas producing companies to ascertain the magnitude of reserves reported to management internally?

A. I should think that would be a promising method, yes.

Q. Could you elaborate on what you mean, "that would be promising"?

A. At present we have no access to backup data for the AGA published figures. Now, the information that you are talking about, which is the information internal to the company, should be helpful in permitting outsiders to verify the reported figures of AGA. I do not know of any other way to make estimates. I guess that the Government could do a lot more in terms of verifying the AGA figures if they want to, for example, in the off-shore area where it is federal domain gas, I gather that the geological survey could make estimates that should be as reliable as what is published by AGA and could be done every year.

Q. Why hasn't the Power Commission, trying to formulate policy judgments today on the assumption of AGA's stated reserves, taken steps towards verifying the accuracy of such reserves directly from company memoranda, which we just discussed?

A. I can only speculate on that, but it is my view that you're not focusing on a critical problem. I think you can tell from my responses that I don't get that much excited by the AGA figures—they don't help me in my costing, which is really the basic question I'm concerned with. They are used very much for propaganda purposes, which is their main use in recent years. I am disturbed over this type of use because I think we don't have enough verification to show that declines shown by AGA are actual declines.

But from the standpoint of the Commission's needs, I'm not sure that they should spend all the money that would be needed to get detailed confirmation. I think, as I said earlier, that the Commission's main concern is allowing prices which will permit the pipelines to require reserves, the pipelines are not unable to get the reserves, they have to look at our prices and see what the problem is.

Q. Well, as I understand the facts, Dr. Wald, prices have been and are in the process of being increased by several billions of dollars to consumers. If the shortage exists because of a massive withholding, isn't that irrelevant to whether the consumers should pay billions of dollars more for natural gas?

A. It is not relevant unless you can show that there has been collusion. I would say that every business man has the right to say whether he should sell today or hold off till tomorrow. I don't see anything criminal in such decisions. Now, if there has been collusion among the producers, that would be a cause for antitrust action. But my view is that the problem is that we have not stood by our ceiling prices. The Commission has not said that "This is the ceiling and this is the highest we are going to go, and if you wait next year, you're not going to be better off than selling this year." It's this lack of strong affirmation of the reasonableness of the ceiling which is the problem.

Q. Is that to say that Commission regulation in the past four years by increasing prices relatively slowly at a nickel or dime at a time with promise for more has exacerbated the supply problem?

A. In fact, the most important fact which has exacerbated the supply problem is the position by the Administration and by the Commission that prices must be higher and that our allowed ceiling prices are inadequate for the industry's needs, and also, of course, the position that the gas prices should be de-regulated. I think in such an atmosphere, it's very difficult to attract supply to the interstate market.

Q. Have you offered advice or assistance to the Federal Trade Commission in connection with what you believe might assist them in their investigation of the accuracy and reliability of American Gas Association reported reserves?

A. The instructions to the Commission staff are that all contact with the Federal Trade Commission would go through the Office of General Counsel—through the General Counsel. This was true when Mr. Gooch was with us. So I would not be permitted to have direct contact with the Federal Trade Commission. There were some contacts while Mr. Gooch was with the Commission. I have not been aware of any contacts since then. I have been sitting quietly waiting for the Federal Trade Commission to take the initiative in contacting me.

Q. Could we back up a moment and give me a little more background upon the circumstances in which you came to believe any contacts with the Federal Trade Commission must be occasioned through Mr. Gooch's office?

A. This was made clear in the one meeting I attended between FPC staff and FTC staff. At that time the General Counsel indicated that the Federal Trade Commission should contact him whenever they have any interest in speaking with the Federal Power Commission staff.

Q. And since that time, you have not heard from the Federal Trade Commission or from Mr. Gooch that such additional meeting were desired, is that correct?

A. That is correct.

Q. Is it a general practice to bar discussion meetings with other agencies except through the offices of the general counsel?

A. In sensitive matters of this sort, I would say it *is* a general practice, yes.

Q. Why would this be a sensitive matter if the investigation were being conducted by the Trade Commission—what would be sensitive to the Power Commission?

A. It's sensitive in the sense that the Power Commission has endorsed the reliability of the AGA figures and the purpose of the Federal Trade Commission is to investigate whether the figures are reliable.

Q. Has the Bureau of Economics ever tried to gather their own confidential data on reserves or industry structure?

A. We have made many studies of industry structure. We have not attempted anything in terms of collecting original information on reserves. We, of course, could not do that without going through the Commission and getting their approval.

Q. And I take it, you speculated in your own shop on what the chances for approval would be and therefore did not pursue the matter?

A. Well, I can't say that we ever drew up any plans for checking reserve data. Obviously, reserve reporting is more a matter for petroleum engineers than it is for economists. We do have a staff in the Bureau of Natural Gas which is responsible for analyzing all the reserve data and making their own studies.

Q. In connection with the data underlying R-405, we have some testimony and some documents on the record respecting the fact that the information was administratively confidential. Can you give me some background on the kinds of data and the occasions on which the administratively confidential data has been denied to your office in the past?

A. There have been very few occasions. At the moment I cannot think of another occasion where we wanted to make studies based upon administratively confidential data and were denied the results. Of course, in this case, we had not asked to see the administratively confidential data, and, moreover, our request was responded to. It would be inaccurate to say that we were denied something which we asked for—we asked for concentration ratios and we did receive the data for those ratios . . .

Q. Which were erroneous.

A. . . . which apparently were erroneous. I don't think, though, that you can associate the errors with an effort to frustrate our research.

Q. What happened when you asked for the corrections to be made of the errors?

A. Then we must refer to Mr. Kofkin's memo, which said that when he asked for the corrections, he was told the data had been destroyed.

Q. Are you familiar with practices within the Power Commission relating to returning data to companies, or in lieu thereof, destroying data?

A. I have no familiarity with that. Our office has never handled confidential data. I guess it is rare for us to receive any actual reports of companies. They come to the other offices and we are a user of the data but not an actual compiler of the information.

Q. Do you know any occasions in the past in which the Power Commission received data from companies on the understanding that it would be returned or destroyed?

A. I believe our surveys of intrastate prices were made under similar rules, but I'm not confident of that. . . . You probably realize that we have made special surveys in intrastate prices and the company information was confidential, and I think that the rule was that the company would bring their information to an investigator from the FPC staff, he would copy the data that he needed, and the company would then take the data back.

Q. Is this approach approved by the Commission, do you know?

A. This was under the Commission's orders, yes, sir.

Q. About what year was this?

A. This was done within the past three years.

Q. In connection with R-405, do you know whether the Commission agreed that such material would either be returned to the companies or destroyed?

A. I do not know anything other than what's in the initial order. I don't have the order here. I'm referring to the order authorizing the survey.

Q. Were you ever present at any Commission meeting when it was discussed whether material acquired from companies would be destroyed rather than maintained at the Federal Power Commission's offices?

A. I only recall discussions in terms of keeping the information confidential. I do not recall discussions on returning or destroying the data, but at this late date, I can't be sure that it was not discussed when I was present.

Q. Do you know whether any discussions ever took place with or by Mr. Gordon Gooch, respecting whether the data would be returned to companies or destroyed?

A. I have no information about such discussions.

Q. When the data-gathering was initially approved in connection with the Southern Louisiana case, was Mr. Tourtellotte, the staff counsel, responsible?

A. That may be correct. I'm not sure, but he has been involved in similar investigations and he could have been, yes.

Q. At that time, do you know whether he reported directly to Mr. Gooch?

A. He, of course, was a member of Mr. Gooch's staff. I would assume he reported directly to Mr. Gooch, yes, sir.

Q. Do you know whether Mr. Tourtellotte ever made any agreement or commitment to companies respecting to return such data or to destroy it?

A. I do not know anything about Mr. Tourtellotte's activities.

Q. What is your understanding of the term "administratively confidential data"?

A. I interpret the term as barring disclosure to anyone outside the Commission but permitting disclosure within the Commission to at least the top staff people.

Q. When your office wants to take a position in a proceeding different from a position taken by the general counsel or to the Bureau of Natural Gas, do you go to Mr. Maxson for a resolution of that conflict?

A. We first try, of course, to resolve it at the lower staff level. There is an administrative regulation covering that situation. It says that if our staff does not agree with the other staff groups, either you should take it up with the chiefs of the bureau whose staffs are involved, and if the chiefs do not agree, we should present it to Mr. Maxson, who makes a decision, and if there is still dissatisfaction, we are permitted to appeal to the Chairman.

Q. On how many occasions do you recall having to go to Mr. Maxson for resolution of a conflict?

A. I would say only two occasions in the past year.

Q. What were they, please?

A. The only two that I recall is, first, the filing of briefs in the second Southern Louisiana case, where there was a disagreement and it was worked out with Mr. Maxson. I believe at that point, the Chairman was involved also in resolving this conflict. The other occasion—I guess the other occasion was a central telephone case where we had been overruled by the Office of General Counsel and had to get it resolved by the executive director. At the moment—you know, I have to think a while to recall these incidents. Those are the two I remember right now.

Q. What was the problem in the Southern Louisiana case?

A. In the Southern Louisiana case, there was an effort to dissociate the rest of the staff from the econometric model sponsored by our office, and the disagreement was on this point. If the staff briefs would indicate that the other officers did not support our model, we would probably find many points of disagreement where we would not support other offices—for example, on the reliability of the AGA statistics, or the reliability of the costing, and the issue was whether all of these inter-office disagreements should be indicated in the staff brief, or whether we should sort of subdue them with the understanding that we do have to compromise when we're presenting a staff position.

Q. And was the resolution that the other offices would not dissociate themselves from the econometric model and that you would not dissociate yourself from the reliability of the AGA reserves and costing data?

A. The resolution was along that general line, yes.

Q. And what about the telephone case you mentioned—what was the problem there?

A. There the problem was testimony which we submitted which attempted to relate dead issues of the company to telephone operations and to electric operations. There was an attempt to estimate a cost of debt which would be associated with the electric operations of the company rather than the telephone, and we had a method of doing this which was not acceptable to the staff counsel and there was a conflict which, I guess, was resolved satisfactorily at the end.

Q. You indicated, Dr. Wald, that with respect to the promulgation of the questionnaire on R-405, you were present but did not advocate differing views or indicate the weaknesses that you believed were inherent in the questionnaire. You said something about 'how many times can you present a contrary position?' In that vein, I am aware, and the Subcommittee is aware of the position of the Office of Economics respecting present regulatory decisions and the question of regulation or deregulation of natural gas. We're aware, and I'm sure you know, that from time to time there have been statements in the newspapers attributed to Office of Economics personnel, studies of positions of Office of Economics. Now, can you tell me whether you have ever heard either directly or implicitly that the Commission or any high ranking FPC official was considering either reorganizing or abolishing the Office of Economics or removing certain personnel from that office?

A. I have never heard that officially, no, sir.

Q. Have you heard that unofficially?

A. I have heard a few rumors along that line. I haven't attached any significance to those rumors.

Q. Have you heard those rumors from persons outside the Office of Economics?

A. Generally, I've heard the rumors from secretaries, for example, or other lower level staff people who learned it from outside the office.

Q. That discussion—are you testifying, Dr. Wald, that you have never explicitly or implicitly heard of that possibility from Mr. Maxson?

A. I imagine that over the course of the past three years Mr. Maxson may have indicated that because of conflicts within the office, that there may have been some discussion of abolishing the office. I would say that such references were casual type references, that we never had any discussion, I had never any occasion to defend the position of the office or to try to argue that such a move would be inadvisable. It never came to the point of being a serious matter for me to concentrate on.

Q. Did you ever discuss such matter with Commissioner Carter?

A. I have to go through my memory on this. I would say, "No," that I did not discuss such matter with Commissioner Carter (hesitates in answering).

Q. Did you ever discuss such matter with any other Commission member or Chairman?

A. No, the only discussion I had, and it would have been with Mr. Maxson, I hesitate to label it as a discussion because it was sort of exchanging gossip, casual references, which were not relevant because it was not any indication that action would be taken along that line.

Q. Were those matters raised when you were discussing other subsequent matters with Mr. Maxson?

A. I assume they were raised in connection with various leaks of internal documents which often seemed to focus on members of our staff as being the guilty parties because the leaks usually related to matters where our staff was overruled by Commission action or by action of other offices, but they were raised in the context of the embarrassment caused to the Commission by these leaks, rather than any policy conflict.

Q. Did Mr. Maxson indicate to you that he thought it would be a good idea to reorganize the office and disperse the staff of the office with the other divisions?

A. He has never indicated that that's what he believed.

Q. Did he ever discuss with you the possibility of reclassifying the job of chief economist from a Civil Service protected position to a political position?

A. That has never been mentioned to me, no, sir.

Q. Could you clarify the record respecting the specific information which you indicated had been leaked to the newspapers centering around your Office of Economics staff?

A. Yes. Here I'll have to trust in my memory because I wasn't preparing myself in that area. The major leak was, of course, the Jack Anderson column of, I believe, two years ago which concerned internal memoranda analyzing AGA reserve statistics, comparing AGA figures with our own form 15 data.

Q. And what was the conclusion of your staff that was reported?

A. Our staff disclosed that there were substantial discrepancies between our Form 15 data and AGA data in various areas, in various producing areas. Of course, we can't compare the totals, since they represent very different things, but in certain areas, particularly the federal domain, where all of the gas is interstate, we would expect very close correspondence, and in that case, there was a very large difference, which was unexplained. Now, the other

Q. Excuse me . . . To date, do you stand by and agree with the staff assessment that was reported in the paper?

A. You mean the 9% difference in the survey made for the Natural Gas Survey?

Q. No, no. You just said you were recounting "leaks" and you just described one leak and I'd like to know whether two years later, mainly today, your view is that the staff memo or opinion or "leak" or whatever, was accurate or inaccurate?

A. Well, the staff memo was accurate. It was based upon published AGA figures and figures reported to us on Form 15. We just took the initiative of making the comparisons and sort of exposing the conflicts between the estimates. It's not a question of accuracy.

Q. Well, sometimes Mr. Anderson is accused of being inaccurate and since we have no first hand knowledge, we wanted to get it from you.

A. Yes. Well, let me say that he was very inaccurate in his interpretation of the significance of these numbers. We didn't prove which one was more correct—whether AGA was correct or our own internal figures, and we did not use this discrepancy to say that gas prices were too high or too low or that there was no need for price increases. We had provided simply a statistical analysis which had no policy conclusions in the memorandum.

Q. Has the Commission as of this date acted upon that memorandum and reconciled the differences?

A. The Commission has acknowledged these differences and has explained, correctly, I believe, that these differences do not negate the value of the AGA figures for the uses that were made of the AGA figures in the Commission's opinions.

Q. Did your office use any confidential data in preparing the memoranda showing the differences?

A. We did not.

Q. Is it fair to say that the material leak did not divulge any confidential data?

A. This particular memorandum—I guess there was more than one—on the two comparisons did not divulge confidential data. There were at the same time leaks of other memoranda which were confidential in the sense that they involved intra-office negotiations.

Q. Can you state whether you know for a fact whether the material leak to the newspapers came from your office?

A. I do not know where they came from.

Q. You identified one instance of a "leak,"—namely, the Jack Anderson story of about two years ago. Can you state for the record the other "leaks" that your office has been suspected of?

A. Yes. The newspapers played up a problem in connection with the general counsel's mission in the El Paso divestiture case. This is a submission to the Court in Denver, I believe, where there was a difference between my representative in the staff group and the general counsel's position, and our office had refused to sign—had refused to be formally identified as being associated with the general counsel's position in this divestiture case, and that type of discussion was purely internal but it was leaked to the press and it was a source of considerable embarrassment to our office.

Q. Have you ascertained whether that "leak" came from within your office?

A. I do not know the source of that leak.

Q. As I recall, the Chairman of this Subcommittee and a large, I think, number of other Senators, wrote to your Commission, and I think, the court, with respect to the position of the Federal Power Commission staff in that case. I'm only stating it for the record. I'm not sure I have the question based upon it.

A. I recall that correspondence, yes, sir.

Q. Did someone view the public acknowledgement that the Office of Economics disagreed with the position taken by other staff as something wrong or as something embarrassing—I guess what I'm really asking is what—assuming that there was a difference of opinion within the staff and one side made a presentation to the Court, what was deemed wrong about the other side telling the Court, "We disagree"?

A. Well, all communication to the Court was, of course, through our general counsel. Now, ordinarily we would not —— conflicting staff views in matters of this sort. He would have the final say since he was authorized by the Chairman to be the Commission spokesman in the Court. We had an opportunity to influence him. I guess we didn't have *much* of an opportunity because we were not really involved in the activity until the very last minute, but I don't think that there was some unfair play by having his view go to the Court rather than ours.

Q. Was the general counsel then Gordon Gooch or Leo Forquer?

A. The general counsel was Gordon Gooch.

Q. Did the general counsel represent to the Court the Commission views or the staff views of the case?

A. He represented the staff views. Of course, the Commission did not take any official views on the case. You may recall that the—one of the last briefs footnoted the staff views to identify the office as supporting the staff views and did not include the name of our office.

Q. If the general counsel makes representations to the Court which is a less than full disclosure, do you think it's wrong if other FPC staff embarrasses the Commission by making the full disclosure?

A. I would say that it *is* wrong, yes, that our Chairman has the authority to designate a staff man who will be the coordinator of a staff decision and if we are overruled, we do not then have the right to appeal to the public for support for our view.

Q. If a Congressional Committee conducting its oversight responsibility obtains information respecting differences of opinion within *any* Commission, your Commission in particular, do you think there's something wrong with staff providing such Committee with such information?

A. No, I think that if a Congressional Committee asked me for my views on a particular policy issue and my views differed from the published views of the staff or of the Commission, that I would be obligated to give my honest answer.

Q. In the El Paso case, was it a difference of opinion appealed to Maxson?

A. That was not appealed to Maxson.

Q. That matter was decided, then, by Mr. Gooch?

A. Yes. The El Paso case was not in the same context as our litigated proceedings before our administrative law judges. That was a special participation in a court case.

Q. Let me go into the data supplied by the 79 companies in connection with R-405 with you in as precise a fashion as is humanly possible between us, Dr. Wald. Can you state, for the record, specifically when your office made a request to the Bureau of Natural Gas for such material?

A. Yes. I think I can run through that history very quickly. The press release came out on February 22nd and I assume that it came to Mr. Wilson's attention a day or two after the 22nd. He mentioned to me that he would be interested in getting four-company and eight-company concentration ratios for these uncommitted reserves. I told him that if he was interested, he should make the request to the Bureau of Natural Gas, which he did and he was then told that the Bureau could not provide the information.

Q. Now, when did you tell him he could make such a request?

A. I would say within five days after the press release.

Q. And when did he make such request?

A. I think he made it very promptly. The only other date I can pinpoint is the date when we received the data, which was about a month later, as I recall. But let me say that this happened reasonably quickly because Mr. Wilson was preparing for his cross-examination so that he reported back to me that he could not obtain this information from the Bureau of Natural Gas and he solicited my help in obtaining the information.

Q. When?

A. I would say within a week after the release of the data.

Q. The only dates I have in mind right now actually relate to the February 22nd Commission release and the February 27th request for such data—that request is among the documents you gave us.

A. That was a request from Wilson to Kofkin on the 27th. I had a note of that here, but I don't have a document.

Q. Now, I understand from the document here that the 27th, according to the document, represented a refusal by the Bureau of Natural Gas to provide such data.

A. Yes.

Q. That's what one Mr. Zabel told Mr. Kofkin because, allegedly, on such date Mr. Zabel told Mr. Kofkin the data had already been destroyed. Does that comport with the information that you have?

A. That is consistent with my information.

Q. Where do you get your information?

A. Well, in this matter, I would have gotten it from Mr. Wilson and Mr. Kofkin, because I was not involved at that negotiation between them. Let me think—if I go on a little bit, I can put things in perspective—when Wilson reported that he was unable to get the information, he asked me to meet with Mr. Joyce and see if it could be arranged. I did meet with Mr. Joyce—I cannot give you the date, but I would say it was probably within a week of the 27th—

Q. Of February 27th?

A. Yes. As I recall, I met with Mr. Joyce following a Commission meeting. I did not set up a formal schedule with Mr. Joyce, but after a Commission meeting I walked back to his office and told him our need for the data. He then telephoned Mr. Mangen and asked him what was the problem in providing the data.

Q. In your presence?

A. In my presence. There appeared to be some misunderstanding as to what we wanted, and after I'd explained it to Mr. Joyce and Mr. Joyce had then explained it to Mr. Mangen, Mr. Mangen said, "Yes," he could provide the information.

Q. All on the telephone while you were there?

A. That is correct.

Q. At such time, did you inform Mr. Joyce, either explicitly or inferentially, that it was alleged that at such time the information no longer existed?

A. I don't think that was my understanding of the state of affairs. I had an understanding that the Bureau of Natural Gas could not provide the data because they felt that our request was outside the permitted uses of the data by the Commission staff, that these were confidential data. It seemed to me that they were interpreting their instructions as simply to make the composite data available in the press release, but not to do anything further with the data.

Q. At that time, you were not informed by Mr. Wilson or Mr. Kofkin that Mr. Zabel reported the data had been allegedly destroyed?

A. I don't recall the description of the data having been destroyed. I remember a reference to the fact that one of the reporters had picked up its data sheets and taken them from the Federal Commission—Power Commission offices.

Q. You mean one of the companies?

A. One of the companies. But other than that, I don't remember any claim that they had been destroyed, but obviously, I didn't pursue it that closely because Mr. Joyce rather quickly was able to get agreement from Mr. Mangen to provide the information which we had requested, and as you know, that information was forwarded to us by memorandum of March 22nd. It's the one that I turned over to you . . .

The next episode, which we've already covered is the memorandum from Mr. Kofkin in which he said he discovered errors and when he tried to get them verified, he was told the data had been destroyed.

Q. And that memorandum was dated?

A. It was dated April 6.

Q. So you received the memorandum April 6, which is the first time you got involved in this data, since receiving the March 22nd memorandum, is that correct?

A. That is correct. I had assumed the March 22nd memorandum answered the questions we were interested in and that it closed the matter.

Q. And what did you do on April 6 when you received the memorandum saying the corrections could not be made because the data had been destroyed?

A. I did nothing, because I assumed the statement was accurate that the data had been destroyed, and that seemed to again close the matter, and there was nothing further to be done.

Q. Were you at all concerned that federal records had been destroyed?

A. I was not concerned simply because I felt that the Bureau of Natural Gas had made an honest effort to answer our request and they assumed it was all settled and then they destroyed the data. I guess I just was under the assumption that these were the instructions they were operating under. I had no information on what the rules were for handling these data. If they destroyed it, I assumed that they had authority to make that decision.

Q. Prior to June 1st and subsequent to April 5, did you discuss with anyone the fact that the data had allegedly been destroyed?

A. I did not.

Q. Did you hear it discussed by anyone?

A. I did not hear it discussed until June 7.

Q. Prior to June 7 and subsequent to April 6, did you have any information respecting who destroyed the data?

A. I did not.

Q. Did you have any information respecting who approved its destruction?

A. No, sir. The subject never came up in my presence, and, as I say, I dismissed it from my mind pretty much after I was told by Mr. Kofkin that the data had been destroyed.

Q. Going back to Mr. Zabel's first refusal, in light of your understanding of "administratively confidential," did you find Mr. Zabel's first refusal somewhat strange?

A. Not really, because this was not simply "administratively confidential." This was a confidential status required by the Commission's order authorizing the collection of the information, and I think that under those conditions, if Mr. Mangen was instructed to be the sole custodian of the data, I had not cause for complaining that I wanted to see the information.

Q. Was Mr. Mangen directed by Mr. Joyce to provide the information for your staff?

A. Yes, he was directed as a result of my meeting with Mr. Joyce and explaining what data we really wanted.

Q. Is Mr. Joyce Mr. Mangen's superior?

A. He is.

Q. Is Mr. Joyce Mr. Mangen's superior for all matters?

A. Well, Mr. Joyce is Chief of the Bureau of Natural Gas. I would say yes, he is his superior.

Q. As I understand it, Mr. Mangen was appointed custodian. Is it your understanding of Mr. Mangen's responsibility as custodian to defer to Mr. Joyce's judgment respecting what he can make available to your staff?

A. It is not clear in my mind as to how Mr. Mangen was designated custodian. I think that's my word—I don't think that's a word in any Commission order, though I'm not sure. I really don't understand those relationships very well. I just know that our office was not a party to studying the data, that we were not authorized by the Commission to have anything—to handle the data that actually came in.

Q. Can you tell us what happened in this matter commencing June?

A. Yes. I mentioned that June 7 was the first date when I learned that the data had not been destroyed. I can tell you how I learned that, because I learned it indirectly from Mr. Wilson. Mr. Wilson had been called in to Mr. Maxson's office to discuss this whole problem of destruction of data, and Mr. Maxson had shown Mr. Wilson the memorandum which was a detailed chronology of the handling of the data. After Mr. Wilson returned to his office, he came in to see me and told me that he had just learned that the data had not been destroyed, and obviously we were in a way amused by it, because we had gone on the assumption that it had been destroyed—maybe "amused" is not the word, but we were completely taken by surprise. I think the amusing part was the story that the papers had been torn in pieces and had been pasted together and it sounded like a good comedy for a movie (laughs).

Q. Who pasted the pieces together, do you know?

A. I think I know only from newspaper reports. I did not see this detailed chronology which I was referring to, but the newspapers referred to senior people pasting it together—perhaps Mr. Mangen. I don't know who else.

Q. Were you interviewed formally or informally by Mr. Maxson with respect to the circumstances surrounding the alleged attempted destruction of this data base?

A. I have not been interviewed. As you know, he is conducting interviews, and some of our staff have been, but I have not been called in.

Q. Do you know when he commenced his investigation?

A. The first interview that I'm aware of was with Mr. Kofkin and that was done on Thursday of this past week.

Q. That would be June . . .

A. June 14th? I, of course, don't know whether that was the first interview. I know only because Mr. Kofkin is one of our staff people and he did inform me.

Q. Yes. Do you know what caused the revelation or the discovery that the documents were not yet destroyed and that they should be maintained?

A. I—what I know is probably from my conversation with Mr. Wilson where he indicated that the Chairman had ordered the matter to be investigated and had ordered the documents to be reconstituted. What caused that I don't know except that subsequent to this conversation I focused on Mr. Joyce's reply to Chairman Hart and Chairman Hart's follow-up letter which indicated that he was disturbed about the destruction of the data, and connecting those, I assumed that it was because of Chairman Hart's further inquiry that Chairman Nassikas stepped in and "saved the day," you might say.

Q. Are you aware of any additional written material existing respecting the use or disposition of the data we have been discussing today, other than the material you supplied in your reference to the two page statement in the possession of Mr. Maxson?

A. I didn't refer to a two-page statement, because I don't know whether it's two pages or ten pages, but I referred to a chronology of the events that was prepared by Mr. Vivian, as I understand it. I have not seen that. That is the only document that I have been aware of. Obviously, things were happening without my knowledge because I was not a direct party to any of these misunderstandings.

Q. Have you ever heard directly or inferentially that your office had been performing in an unsatisfactory manner?

A. I have been aware of dissatisfaction on the part of some or all of the Commissioners with the performance of our office. This is no secret since the Belco opinion came out as a rather strong attack on the performance of our office in that proceeding, and I think that's the first public acknowledgment of disappointment. There have obviously been other occasions when the Commission has been unhappy with arguments we have made and policy positions we have taken. This is bound to happen in any activity of this sort.

Q. Is such dissatisfaction the result of—in your judgment, professional incompetence on the part of your office or because of differing views between your office and those of the Commission?

A. Well, I think you have to look upon those conflicts as the type of conflicts that arise between technicians and policy makers. As economists we may think we have the answers on policy issues, but, you know, the economic viewpoint is not the only controlling viewpoint in matters of this sort and the Commissioners have their own responsibility and have their own ways of putting other inputs than economic considerations into their decisions.

Q. What inputs have you eluded to?

A. Well, there are all sorts of political decisions and political considerations in our decisions—political, not in the sense of anything subversive, but in the sense of impact on deregulation legislation, for example, impact on Congressional investigations, relationship to the President's energy message, things of that sort, which our Commissioners should be considering and ordinarily we wouldn't consider or if we did, there's no reason why our interpretation should be consistent with someone else's interpretation.

Q. I read a speech you made a short while ago setting forth the reasons for your opposition to deregulation, Dr. Wald. Do you still subscribe to those views?

A. Yes, I do. And if you weren't going to mention it, I was going to mention it because it does tie in with some of our earlier line of questioning.

Q. I'd be delighted to receive a copy. I don't know if I could find it in my disorganized file system.

A. I brought along a copy with me and I'm sure I can find it, and I would be glad to have it marked as an Exhibit because it does express views which I still hold, and I think sets forth a policy position much more effectively than I did before, just talking extemporaneously.

Q. We'll mark that Wald Exhibit Six, for the record, and we'd appreciate receiving it. . . . Thank you very much, Dr. Wald. We apologize for the length of time required. We do believe you've been most candid, cooperative and forthright in responding, and we would like to know whether there's anything else you might like to add to your statement at this time. Please feel free to do so.

A. Perhaps I ought to emphasize again that in this matter I at no time felt that there was an effort to deprive the Office of Economics of information which the Office needed for its testimony in Belco proceeding or for any other analysis. I have always felt that the refusal of the Bureau of Natural Gas at first to provide the information was purely in the context of the data being confidential and that our use may not be consistent with the Commission's order and I feel that the later transmission of the data with errors was purely happenstance, that there was no design on anyone's part to give us wrong numbers and I further believe that the subsequent word that the data had been destroyed was not an effort to deny our use of correct information, but simply some bungling by someone and, again, it wasn't any deliberate effort to frustrate our work.

Q. Thank you, Dr. Wald. The time is now 2:30 and because this is a preliminary Subcommittee investigation at this time, because the identity of all interviewees is not yet fully determined, and because the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are respectfully requested not to discuss the substance of this interview with anyone other than your own personal attorney.

A. I will abide by your request.

Q. Thank you.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY STAFF INTERVIEW WITH JOHN W. WILSON, FPC

Tape of John Wilson—Let the record reflect that this interview is being recorded. Present are: Mr. John W. Wilson, Federal Power Commission, Mrs. Patricia Barrio, professional staff member, Senate Antitrust and Monopoly Subcommittee. Mr. Bernard Nash, Assistant Counsel, Senate Antitrust and Monopoly Subcommittee, Mr. Charles Bangert, General Counsel, Senate Antitrust and Monopoly Subcommittee.

Q. Mr. Wilson, I have shown to you a paper which advises you of your rights and as I understand, you have read and understand these rights. You do, voluntarily, at this time waive your right to have an attorney present for purposes of this interview. You've no other rights, is that correct?

A. That's correct.

Q. The time is now 8:30. Mr. Wilson, I would like to call to your attention Title 18, United States Code, Crimes and Criminal Procedure, Section 1001, which states any matter within the jurisdiction of any department or agency of the United States knowingly and wilfully falsifies, conceals or covers up by any trick, scheme or device in material fact or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry shall be fined not more than \$10,000 or imprisoned not more than 5 years or both. As you know, we are here because of newspaper reports regarding the destruction of certain records in the possession of the Federal Power Commission and will attempt to procure certain information attempting to elicit your knowledge and information regarding this. We will ask you a series of questions and we want you to understand that there is no basis of accusation or innuendo or pre-judgment intended. It is only a means of information from all witnesses in obtaining necessary background information to evaluate all of the circumstances involved.

Q. Would you please state your name and address for the record?

A. My name is John W. Wilson. I live at 6425 Bellyview Drive, Columbia, Maryland.

Q. And what is the present position held by you?

A. I am the Chief of the Division of Economic Studies in the Office of Economics, Federal Power Commission.

Q. How long have you held this position?

A. Approximately 1 year.

Q. And what was your position before that?

A. I was Staff Economist in the Division of Economic Studies at the FPC.

Q. Who is your superior in this particular position that you hold today?

A. Haskell Wald, the Chief of the Office of Economics.

Q. Would you describe, just generally, the relationship your Office has with other divisions and offices in the FPC in such a manner in which we can construe a chain of command?

A. The Office of Economics reports directly to the Commission. In other words, I am responsible directly to Haskell Wald, Chief of the Office, and Haskell Wald in the same manner as the General Counsel and the Chief of the Bureau of Natural Gas, the Chief of the Bureau of Power and the Chief Accountant, would report directly to the Commission and its top administrative officers such as the Executive Director.

Q. So, your Office is co-equal with offices such as the Bureau of Natural Gas, The General Counsel's Office.

A. Well, I'm not sure co-equal is an appropriate word. Our office, of course, is much smaller than the Bureau of Natural Gas or the Bureau of Power, but in terms of the chain of command and the bureaucratic reporting procedures and responsibilities, yes, the office does hold a similar position on our organization chart as the Bureau of Natural Gas or the Bureau of Power would hold.

Q. Could you detail a little bit your responsibility in your present position?

A. Well, as the name implies, the Division of Economic Studies does engage in studies of various issues—the economic aspects of various issues of concern to the FPC. We investigate and study matters pertaining to the natural gas industry, natural gas pipelines, electric utilities, the regulation of electric utilities. Functionally, we participate in adversary proceedings representing the FPC's staff. We testify in cases before hearing examiners in proceedings in which we have not been directly involved. We sometimes advise the Commission in their decision-making role. We assist and work with the other offices and bureaus within the Commission on the Commission's business which is essentially related to the petroleum industry and the electric power industry.

Q. And, you, in the course of this position, from time to time, advise the Commission and testify during proceedings—is that correct?

A. Well, not simultaneously. The answer is yes. We do advise the Commission and we do testify in proceedings, but, obviously, we don't advise the Commission in those proceedings in which we have testified. But, we do have a dual role in some cases. We will participate with the element of the Federal Power Commission's staff that is engaged in the litigation process. In other proceedings, we will function as advisors to the Commission.

Q. The difference being that in your testimony, this would be a proceeding that the Commission will ultimately have to sit as judge on and you wouldn't advise in that regard—correct?

A. That is correct.

Q. Would you detail your previous positions, jobs, employment, employers prior to coming to the Federal Power Commission?

A. Prior to coming to the Federal Power Commission, I was Assistant Professor of Economics at United States Military Academy at West Point. In addition to that academic responsibility, I was Varsity Debate Coach. During the time while I was at West Point, I did serve as a consultant to the Antitrust Division of the Department of Justice and did testify as an expert witness in a major antitrust proceeding involving the electric utility industry in which the Justice Department was interested. I was at West Point for a period slightly in excess of 2 years. Prior to that, I was a doctoral student at Cornell University for a period of three years. Prior to that, I was a student at the University of Wisconsin where I served as a research assistant for a period of one year.

Q. Have you in any capacity ever represented or worked for anyone in the oil and gas industry?

A. No, I have not.

Q. Now, in addition to the compensation which you received from the Federal Power Commission, do you have any other source of income such as stocks, bond holdings, etc?

A. No, I do not.

Q. Do you have any vested or unvested pension rights, insurance plans, retirement benefits, or any other financial arrangements arising out of previous employment or from sources other than your own personal finances?

A. No, I do not.

Q. Do you have any relatives working in or for or representing in any capacity the oil and gas industry?

A. No, I do not.

Q. Would you please relate the circumstances under which you first approached the Commission and obtained employment there?

A. Well, I had known people in the Office of Economics at the FPC since my time as a graduate student at Cornell University. I wrote my doctoral dissertation on the electric utility industry and had been in contact with the Office of Economics at the FPC in that regard and in matters subsequent to that time. And it was quite natural at the time my military obligations were completed for them to be aware of the fact that I was seeking additional employment and we just got together. After I was finished at West Point, it was a mutual interest.

Q. Have you ever received any honorariums, gratuities, transportation expenses, gifts, or any other thing of value more than \$10 in value from oil and gas companies, officials or representatives?

A. No, I haven't.

Q. Have you had any discussions, either formal or informal regarding future employment with any member of the oil and gas industry since your appointment to the Federal Power Commission?

A. No.

Q. Are you a member of the American Gas Association?

A. No.

Q. Have you discussed your appearance here with anyone prior to your entry into this room?

A. Yes.

Q. Would you please relate the identity, time of the discussion and the substance of the discussion?

A. Well, I discussed my appearance here with Mr. Maxson who is the Executive Director of the Federal Power Commission. At at least two points last week, I talked to him prior to his questioning by you gentlemen and I talked to him subsequent to his questioning by you. The conversation we had was fairly general. He advised me as to certain procedural matters. In addition to talking to Mr. Maxson, I talked briefly with Haskell Wald and briefly with Melvin Kofkin, but really didn't get into any substantive discussions with either one of them. It was just more or less commenting on the fact that we had mutually been requested to appear before you and answer questions.

Q. When you stated you discussed certain procedural matters with Mr. Maxson, I wonder if you could be a little more specific?

A. Well, two things stand out in my mind as a result of the two discussions I had with Mr. Maxson. No. 1, our discussion, part of our discussion focused on his desire to make me aware of the fact that I was not to provide you with information that was the result of the tabulation the Bureau of Natural Gas had done for us on certain statistics in March of this year. He indicated at that time a retabulation was being made and that retabulation would be available to myself, to you and to the public record in general, but the earlier tabulation was to be considered as administratively confidential. Secondly, he advised me that it would be inappropriate and unnecessary for me to sign the statement that you gave me at the beginning this morning to the effect that I waived all my rights. He indicated that he had modified the statement before he signed it and advised that it would be appropriate for me to do as well.

Q. Now, who initiated this contact between you and Mr. Maxson?

A. Well, initially, the conversation between myself and Mr. Maxson began prior to my knowledge regarding your investigation. I think that it would be fair to say that he was the one who initiated the contact of the discussion with respect to his own questioning by you. I had received in written form a memorandum his office had distributed that had been prepared by the FPC's General Counsel regarding confidential material and the appropriateness or the inappropriateness of discussing that confidential material and I asked him for a clarification as to whether that particular ruling applied to the material the Bureau of Natural Gas had supplied to the Office of Economics and the material, in fact, that is the subject of your investigation. He indicated that certainly did apply to that material or compilations made from that material.

Q. Well, the tabulations that as I understand Mr. Maxson advised you not to turn over to the subcommittee. Was there raw data in those tabulations that came from the responses received by the FPC.

A. Well, there was raw data, but there was not data pertaining to individual responses or pertaining to individual companies. Mr. Maxson was aware of the fact that neither myself nor to my knowledge that anyone in the Office of Economics has ever been permitted to see or in anyway utilize the individual re-

ports that were received from the companies by the FPC. All that we ever did receive was aggregated data specifically, data pertaining to the top four and top eight firms without any identification as to who those firms were or what the individual firms' quantities were so our discussion pertains specifically to the aggregated raw data which had been furnished to us by the Bureau of Natural Gas.

Q. Well, the tabulations—Did you have any idea prior to Mr. Maxson so advising you that these were administratively confidential?

A. Yes, sir. It was indicated to us that these tabulations were administratively confidential at the time that we received them from Mr. Joyce, the Chief of the Bureau of Natural Gas. He apparently made that determination at that time. Subsequently, I questioned the appropriateness of that classification, but that classification has never been changed.

Q. What were you going to do with those tabulations?

A. We had intended to use those tabulations in studies that we were doing that were related to the structure of the natural gas industry and we had a number of reasons for wanting that information. One was long-range studies that were just in the process of being worked on at the time the data were requested and secondly we were involved in a gas rate proceeding in which the market structure of the industry was a critical factor at the time the request of the Bureau of Natural Gas was made and we, of course, were hopeful that we could use that information as part of the proceeding of the *Belco* Case. It was, therefore, a very great disappointment to us when we were informed by the Bureau of Natural Gas that the data were administratively confidential which, in effect, made it relatively useless to us because we wouldn't be able to utilize it in the *Belco* Case or utilize it in any of our subsequent studies which would be made publicly available. However, we did not press the point particularly at that time because we determined on the basis of our own checking with the information which the Bureau of Natural Gas had given us that there were some rather potential errors in the data that they had furnished us and they were unable to verify or correct for those errors because they told us the data had been destroyed.

Q. Now, again, is it my understanding that you indicated that these tabulations did not reveal individual company's reserve figures?

A. Yes sir. These tabulations—the only tabulations that we ever received from the Bureau of Natural Gas gave us figures for an aggregated group of four companies and for an aggregated group of eight companies. We did not know who the four companies were or who the eight companies were or how the aggregated figures would be distributed among the four or the eight.

Q. So that the material that you received, the tabulation material that you received, if that were made public, one company looking at it could not determine what another company reserves were? Is that correct?

A. Not only is that correct, but one company looking at it wouldn't even know whether its own figures were included in that aggregation or not.

Q. Now, are you saying that only the data you have received is data in aggregated form and that this aggregated form data is what you were directed by Mr. Maxson not to produce to this subcommittee?

A. I was directed not to produce the data which you described to the subcommittee. I wouldn't say that the instructions or advice concerning making data available to the subcommittee is restricted to that, however. It is a general restriction regarding the provision of any data which has been classified as confidential. This data would be one of those items.

Q. Well, what would that include? What data had been declared administratively confidential?

A. Oh, I've got no idea how much data has been declared administratively confidential. I interpreted the instructions as a general provision of not to provide you with anything that I know has been classified as administratively confidential. Frankly, I have access to very few things that have been so classified. But, presumably, other people would happen to have greater access to that type of information.

Q. To your knowledge, what material do you have access to that has been administratively determined to be confidential?

A. Well, I suspect I would be able to get access to a great deal of information which has been classified administratively confidential if I attempted to do so as a member of the FPC's staff. We seldom pursue that kind of data, however, because it is of relatively little use in the type of studies that we would do. Aside from studies advising the Commission, frankly, that data is not usable in testimony,

it is not usable in studies that are going to be released to the public and we just don't have a significant interest in it. As a matter of fact, if I had anticipated that the concentration ratios which we asked the Bureau of Natural Gas to provide us with would be declared to be administratively confidential, we may not of requested them.

Q. Does that indicate you may in some other manner determine concentration ratios?

A. Oh, yes. There are other ways in determining concentration ratios. These data, however, would have given us a particular good indication of what concentration was actually in the market at a moment in time. But, there are other means of determining different types of concentration ratios for purposes of preparing a public study or for purposes of preparing testimony for a public proceeding. Of course, information that is confidential and can't be used is virtually useless.

Q. Now, you said something to the effect that you wanted to use this data in the *Belco* case. Would you expand on that a little? How would you of used it and what effect might it of had?

A. Well, at that particular time, we were in the process of preparing for cross examination in the *Belco* case and we had been under the impression that the interested parties in the case and their attorneys would attempt to cross examine us on evidence pertaining to market structure in the petroleum industry and in the course of our preparations for cross examination, we of course, got together as much factual information as we could pertaining to market structure in the petroleum industry, but we did not have at that time, and as a matter fact, still don't have a good figure representing what the concentration of available gas supplies is at the time a buyer goes into the market and attempts to purchase gas. We have concentration ratios for flowing gas, we have concentration ratios for gas certificated over the period of a year, but all of these things are rather imperfect measures, and it would be much more advantageous to know what the buyer has before him to choose from at the time that he is attempting to make a purchase and these data that we requested initially in February from the Bureau of Natural Gas and the report which was marked administratively confidential which we received in March would of been useful in that regard.

Q. What relationship do you see with respect to concentration ratios in this industry and any ultimate decision which might come out of a case such as *Belco*?

A. Well, frankly, the value of concentration ratios in my opinion is somewhat diminished in the petroleum industry. The purpose of obtaining a concentration ratio in the analysis of whether an industry is competitive or not is related to the attempt to find out to what extent various firms in the industry are interdependent upon each other for or alternatively function independently and therefore can believe to be effective competitive forces in the market place. Now, generally, there is not good direct evidence on the degree of mutual interdependence between firms in a particular industry and it is conventional economic theory and imperical practice to attempt to determine how many firms in the industry control or are responsible for a large percentage of the industry sales; that there are relatively few large firms in the industry.

It's reasonable to believe that these firms all recognize the fact that what one does affects the other, there is a degree of mutual interdependence, and the industry—the effective competitiveness of the industry, at least, is therefore thrown into question.

On the other hand, if there are a very large number of firms, none of which has any appreciable size on the market, there is *prima facie* evidence of the conditions under which workable competition may be possible.

Now, in the petroleum industry, unlike so many other industries in the American economy, there is a great deal of direct evidence of interdependence among firms, and the concentration ratio arguments that have developed from the petroleum industry are, in my opinion, frankly close to being a shell game because there are much more direct ways of making the determination that concentration ratios are a rough proxy for. Nevertheless, the concentration ratio game is played, particularly by the industry, its consultants, and its advocates, and it's important to be able to address these special interests on their own grounds.

That's why I was interested in getting these concentration ratio figures: because I expect they might be able to shed some sort of light on the kinds of figures that the industry people themselves were advancing as indicative of

the degree of competition within the industry, not so much because I thought a determination of competitiveness or non-competitiveness hinged upon those ratios.

Q. Well, do you believe that, had you been able to use this material, that it would have been relevant to the Hearing Examiner in making his decision?

A. Well, the Hearing Examiner actually didn't make a decision in the Belco Case. I certainly believe that the information would have been considered relevant, or I wouldn't have pursued it. The Commission, however, in its decision in the Belco Case, determined that market structure was not a particularly relevant consideration in any event, and I suspect that the presence or absence of this data would not have persuaded them either way because they didn't seem to think that market structure was a relevant concern in any event.

Q. Does any staff at the Power Commission besides yourself think that market structure is relevant to this type of determination?

A. Well, there are relatively few people at the Federal Power Commission that are interested in matters involving market structure and industrial organization analysis. Certainly, other people in the Office of Economics would be aware of the fact that market structure is of critical importance in the functioning of industry in a free economy, and there may be some lawyers that have some familiarity with the antitrust law. I'm not aware of whether or not there is a lawyer on the Power Commission staff that has any specialized training in antitrust law, but if there is such an individual, I would expect that he would be aware of this particular concern, but I would say that, aside from other people in the Office of Economics, I'm not really aware of other people at the Commission at the present time that are prone to focus on those kinds of considerations.

Q. Did the Commission in its decision in the Belco Case indicate that this industry is not highly concentrated and that it was in fact competitive?

A. I believe there was some inference in the opinion to that effect, and it was based largely upon the fact that other economists, notably, consultants for the petroleum industry, had so asserted in the past.

Q. And as I recall, didn't they recite the Permian Basin case as one indicating that there was competition in this industry?

A. I believe they did cite a court opinion in one of the area rate cases—I don't recall whether it was Permian or not, offhand—which gave the Court's opinion that there was competition in the petroleum industry.

Q. So I assume your study, had you been able to get it into the record, would have been relevant to *some* degree in terms of—that the subject of concentration and competition was at least referred to in the Commission's opinion?

A. Well, there was a great deal of material that went into the record under cross-examination on this subject, and I obviously felt that it was quite important, and I agree that had this material also been available and had it gone into the record, it would have been an additional reflection upon the type of that is typically made regarding the effectiveness of competition in the industry, although again, I want to emphasize that I think the implications of this for the purpose of *answering* whether or not there is competition in the industry would have been more important to other people who are more inclined to blindly adhere to concentration ratios than it would have been to myself, because I'm aware of a great deal of *direct* evidence of inter-relationships, and concentration ratios in that context become considerably less critical. You don't go for an indirect test of something when you have a complete direct case before you.

Q. Did I understand you correctly to say that there were inaccuracies in the aggregated tabulation data given to you by BNG?

A. Well, we don't know for *sure*. There are some *apparent* inaccuracies. And I say "apparent" inaccuracies because the numbers that they gave us in the tabulation they furnished us on March 22 did not jibe with numbers that were concluded in the Commission's new release of February 22, 1973, both of which were apparently drawn from the same data base, so either there is some explanation for these discrepancies, of which we are unaware, or there are discrepancies in either one place or the other—either in the information that they gave us or in the February 22 release, because the numbers just didn't add up.

Q. The February 22 release that you mentioned is the public release that was made—docket number R-405; *FPC Staff Release Report on Uncommitted Natural Gas Reserves*, is that correct?

A. That's correct.

Q. Now, the Bureau of Natural Gas and then Mr. Maxson indicated that these tabulations were confidential, is that correct?

A. That's correct.

Q. Well, is it my understanding that they are going to re-tabulate and then release this information?

A. On June 8, subsequent to finding out from Mr. Maxson that contrary to what we'd been told in April, that they had in fact not been destroyed, I re-instituted to the Bureau of Natural Gas a request for a retabulation and some explanation as to the discrepancies we had noted in the data that they had provided us previously. I indicated my desire to get this information as quickly as possible, but it's my understanding that when my request is honored, and I believe it will be, that you will receive a copy and the public file will receive a copy of whatever the Bureau of Natural Gas prepares in response to my reinstated request of June 8.

Q. In the discussion you had with Mr. Maxon, or with anyone else prior to your coming here, has anyone suggested that you alter or limit your testimony before us?

A. Not except insofar as I've already indicated: I was advised not to discuss confidential information. There's been no other suggestion that I alter or limit my testimony.

Q. Has it been suggested at all to you that you report back to anyone else the interview that you have had here?

A. No, sir.

Q. And it is your impression that the new tabulation that is being prepared and apparently is to be released is basically a correction of the same thing that prior had been declared confidential, is that right?

A. Yes.

Q. You were requested to bring with you today all writings of any nature whatsoever, including drafts, diaries, logs, and records of telephone conversations referring or relating to the use and disposition of the documents involved in the alleged attempted destruction. Did you comply fully with this request?

A. I have all documents that I am aware of and that are in my possession with me today.

Q. Will you at this time provide us with those documents?

A. I will with the exception of those which contain the specific data that I have been advised not to make available.

Q. All right. With respect to the data that you have been advised *not* to make available, I wonder if you could for the record specifically identify in a manner that will not reveal the content, what those documents are?

A. Well, basically what I'm not going to make available is the tabulation that was provided to the Office of Economics by the Bureau of Natural Gas on March 21, 1973, and documents that were prepared from that tabulation, which include numbers dealing with the four-firm and eight-firm concentration ratios that we derived from that tabulation. These would include a brief note that was prepared by Mr. Kofkin of my staff when he received the corrections to the BNG tabulation, and it would also pertain to a memorandum that Mr. Kofkin addressed to me on April 6 of 1973. There were in that memorandum two references to concentration ratios, which I have obliterated from the copy of the memorandum that I am giving you. So that memorandum of April 6 has been altered in that way so as not to reveal the concentration ratios derived from the BNG tabulation.

Q. All right. With respect to the material that you *are* retaining and are not delivering to us by virtue of the instructions that you have received, I would request that you retain this material and not destroy it, since the Subcommittee is conducting this preliminary investigation.

Now, in any of your conversations with Mr. Maxson, did he relate to you the substance of his interview with the Subcommittee staff?

A. He chatted very briefly with me on Friday about one or two questions that he was asked.

Q. Would you be more specific, please?

A. Well, he talked briefly about the question that he was asked concerning the Office of Economics, as I recall. He indicated that he was questioned about his view of the competence of the Economic staff of the Commission, and as I recall, he offered some indications as to his views on what he believes to be the practice on the part of the Office of Economics to take matters to the press. I, as a matter

of fact, had a fairly candid heated exchange with him on that point on Friday. There was also some discussion about questions he was asked concerning his knowledge of Chairman Nassikas' attitudes towards Senator Hart. He indicated that he did in fact indicate that he didn't know answers to a number of questions in that particular area of inquiry and he discussed with me the waiver of rights statement which he altered and which I altered before I signed this morning.

Q. You indicated you had a rather vigorous discussion with him with respect to the Office of Economics, I believe, you said "going to the press," or something like that. Could you elaborate on that?

A. Yes. Well, apparently Mr. Maxson is under the impression that the Office of Economics, or individuals in the Office of Economics, are in the habit of going to the press with complaints after they have lost cases before the Commission. This had, in fact, been previously implied to me by Mr. Maxson, and I believe we had a discussion at that time as well. I can't offhand think of any press story after the Commission has reached an opinion, in which he could in any way suggest that the Office of Economics had an interest in any way in taking the story to the press. As a matter of fact, the stories that I've seen in the press are largely related to press releases that the Commission itself releases after an opinion. Now, there have been stories in the press during the conduct of a certain hearing, but those stories seem to be related to the hearing themselves, and of course, there are the stories that have been reported recently involving the particular matter that's under investigation here, but these are, in fact, matters that we've only been aware of for a week, and I think it's totally improper and erroneous for him to imply that the Office of Economics is the source of unfavorable publicity in the press that he or the Commission has received recently.

Q. So, in fact, you view that as an unjust accusation, is that correct—the accusation that the Office of Economics goes to the press when they lose in front of the Commission?

A. Yes, sir. I think that's unjust and unsubstantiated entirely.

Q. Well, how do you view the loyalty of both the Office of Economics and yourself to the Power Commission?

A. Well, candidly, I would have to say that my own loyalties are not so much ones to individuals, but to the job that I'm expected to perform. I can't speak authoritatively about the loyalties of other people in the office, but it's my opinion, (1) that other people in the office *are* sensitive to the feelings, desires, dispositions of the Commission. I recall that Haskell Wald was particularly upset a week or so ago, when he learned of the fact that the press was going to report the destruction of these documents, and he was worried because it was his feeling that the Chairman of the Power Commission was going to be upset about the press reports.

But I also feel that the other people in the Office of Economics are dedicated to a principle of intellectual integrity and their first loyalty is to doing an effective job of serving the public interest rather than serving any particular political figure.

Q. You indicated that Mr. Wald was upset that there might be a story in the press with respect to something that happened down at the Federal Power Commission. Do you believe that he felt threatened by such a story?

A. Yes, sir. I believe that the man, in his own mind, he *did* feel that not only himself, but the Office of Economics could not benefit and might well be damaged by such a story.

Q. In what manner?

A. Well, the impression that Mr. Maxson seems to have, as a result of discussions that I've had with him that the Office of Economics is in the habit of going to the press with stories that are of a troublesome nature to the Commission is, I believe—and I don't really have direct conversations in mind at the present time to support this belief—but I do believe in general that this is not an opinion that is restricted to Mr. Maxson, that there tends to be a reaction in the Commission on the part of a number of people that the Office of Economics is responsible for external *publicity* problems that the Commission encounters from time to time. And there is some apprehensiveness—within the Office of Economics—there is some apprehension about what steps the Commission may be inclined to take in the future, if they continue to believe that the Office of Economics as an institution is the source of their public relations discomfort.

Q. Well, is there a feeling that the Office of Economics might be in danger of being abolished?

A. Well, that though *has* been suggested. It's been suggested to me as largely a concern on the part of other people in the Office of Economics and it's been—sometime in the past it was suggested to me as a reorganizational proposition by an individual *outside* the Office of Economics. At that time it was, of course, not made to me as a threat. It was suggested to me as a reorganizational proposition and I was asked what my thoughts on reorganization were.

Q. Who suggested this to you?

A. Dr. Kenneth Leahy suggested this to me when he was on the staff of Commissioner Walker, before Commissioner Walker left the FPC to return to the University of Missouri and before Dr. Leahy went to the Interior Department as Deputy Undersecretary.

Q. Now does this fear or worry that you expressed, does this also go to the individual job and the possibility of losing that job?

A. I wouldn't be able to comment on that. That has not been a concern of mine, and I think—it's my impression that the concern that has been voiced to me by other individuals within the Office of Economics of the FPC is not oriented towards their particular loss of a job so much as it's oriented toward the loss of the Office of Economics as an independent branch within the FPC. There's naturally a good deal of concern that if a reorganization would take place and the Economics Office would be carved out and split up, and the economists would be put into various bureaus and other offices as technical functionaries, that their ability to continue to do the kind of work that we believe is meaningful and to contribute to input to possible policy proposals would be separated from the policy makers by a layer of bureaucracy that would prevent us from having the kind of impact that we feel economic analysis *should* have to regulation and price making and to economic policy.

Q. Well, I take it that Dr. Wald and the other economists at the Federal Power Commission have some sort of Civil Service status and protection?

A. Yes, sir. Everyone at the Office of Economics, including Dr. Wald, I believe, is under the Civil Service system.

Q. Going back to R-405, how frequently does the Federal Power Commission, to your knowledge, get data of this kind from industry?

A. I'd have to say it's quite infrequent. Data of this type . . . this particular type, . . . probably haven't been collected more than a very few times in the last decade, but I couldn't give any exact estimate. It wouldn't surprise me if it hadn't been collected more than two or three times in the last ten years. I don't know, however, whether that is a fact. This particular data collection, which apparently took place some time during 1972, has to my knowledge not been done again since then and when it was done previous to that, I really don't know.

Q. So, do you, to your own personal knowledge, know what's ever become of other data that may have been collected—data of this nature?

A. I don't have any personal knowledge of that, but I'm aware of reports in the press to the effect that Mr. Mangen has indicated that the type of destruction that he apparently had requested with respect to these data, that the procedure had been followed in the past, but whether that in fact actually happened, whether those data are in existence or not, I really don't know.

Q. Do you know of any rule or regulation that the Federal Power Commission has regarding the receipt of such material as this and the disposition of it?

A. I'm not intimately familiar with that rule, but I do understand that there is a rule that prohibits the destruction of such data.

Q. Is this a Federal Power Commission rule?

A. I believe it is.

Q. Now, do you normally in other instances have access to data such as this, do you know?

A. Well, only to the extent that I *requested* it in most instances, because the Office of Economics does not actually engage in conducting these kinds of surveys and even when other Offices *do* collect information that is considered of a critically confidential nature by the industry sources that are supplying the data, we would probably not have ready access to it simply upon my request. For example, we've attempted recently to obtain certain information relating to the Natural Gas Survey, and some information we were given only after a ruling was made that this information would be generally available to the public. Prior to that, we were not permitted to have that information and it's my understanding that the data pertaining to gas reserves, which was the subject of a recent FPC report is not generally available to staff members.

Q. To the best of your knowledge, who made that ruling, do you know?

A. I believe the Commission did.

Q. What's your interpretation of the requirement in Docket number R-405 which says: "Information received from individual companies be maintained in a confidential status?"

A. Well, as I believe I made clear in my memorandum of June 8, the Chief of the Bureau of Natural Gas copy which I've furnished you with, it's my understanding, my belief, and of course I'm not a lawyer, but it's my interpretation that the Commission's ruling would prohibit the revelation of data which would pertain to individual companies, which would reveal the substance of an individual company report concerning its reserves and would not apply to the public availability of *aggregated* data, which would be very useful for policy purposes, but which would not reveal individual company figures.

Q. Now, any general prohibition or specific prohibition that would prohibit a Federal Power Commission employee from releasing confidential information would apply to the Bureau of Economics as well as to other employees, is that correct?

A. Yes, sir.

Q. So, even if you had this data, you couldn't make it, willy-nilly, available to the public, could you?

A. No, sir. I don't believe that any Commission employee could.

Q. Now, going back once again to the material requested in Docket #R-405, I wonder if you, for the record, could give us as complete an understanding as you may have, including dates and the people that you talked to; the role which you played and the role which the Bureau of Economics has played in attempting to get access to this material; and precisely what conversations you had and what you said and what you were told; so that we'll have a general background, hopefully, that we might be able to base other questions upon?

A. Well, a starting point would have to be, of course, February 22, 1973, when the aggregated data obtained in the Commission investigation of uncommitted natural gas reserves was released. Subsequent to that release, on approximately February 27, I asked one of the members of my staff, Mr. Melvin Kofkin, to get in touch with the Bureau of Natural Gas and to obtain information regarding the concentration of these uncommitted reserves. As I said, we were particularly interested at that time and were doing studies on the concentration of the natural gas industry, and we wanted to see whether we could obtain some concentration ratios which would indicate the status of the market at a particular time when a buyer may want to make a gas purchase.

Upon receipt of that request from me, Mr. Kofkin has informed me that he contacted people in the Bureau of Natural Gas and was referred to a Mr. Vic Zabel for this information. The date of his contact with Mr. Zabel was also February 27, and Mr. Zabel told him that under the terms of the original Commission order to collect this data, the data base had been destroyed and nothing was available in the Commission, other than the Commission's news release of February 22.¹

I was skeptical at that time that that in fact had taken place. Being aware somewhat of the ground rules in the Commission for the destruction of information, I went to the Chief of the Office of Economics with this report that I had received from Mr. Kofkin and verbally discussed the situation with him and informed him as to why we felt it would be important for us to obtain this information, and he agreed to contact the Chief of the Bureau of Natural Gas and see whether in fact the information didn't really exist and see if we would obtain the information that Mr. Zabel had declined to provide us with.

He did that, to the best of my recollection, some time early in March, and was informed by the Chief of the Bureau of Natural Gas that the data were available and that they would provide us with the tabulation we had requested.

¹ "If he [Kofkin] was talking about any data I collected, that was that 69-1," *Zabel Interview*, p. 29. . . . "And if he called me about my uncommitted reserves . . . if anybody talks about data I collected, if it was with reference to uncommitted reserves, that was the only thing I'd ever collected," *Ibid.* . . . "When I got through with a company, my orders were 'Destroy it.' . . . I was told to get rid of them," *Zabel*, p. 30. See *Albares Interview*, pp. 32, 34; *Albares and Mangen* witnessed burning of work papers and composites in AR 69-1. "That was the 69-1, and I've had a lot of calls on that." *Zabel*, p. 29.

Q. Do you know the name of the Chief of the Bureau of Natural Gas?

A. Mr. Joyce, and I believe that Dr. Wald talked directly with Mr. Joyce on this matter.²

On March 22, I received a note from Mr. Wald and it had attached a tabulation that had in fact been provided us by the Bureau of Natural Gas. Their response to him was dated March 21, and that's the data compilation I'm not providing you with this morning, although there would be no problem with my providing you with the covering memo from the Chief of the Bureau of Natural Gas which transmitted that information to us.

Now, subsequent to the receipt of that information from Dr. Wald, which he had received from the Bureau of Natural Gas, I, in turn, gave the material to Mr. Kofkin, somewhere around the last week in March—in other words, I received that material on Thursday, March 22, and probably Monday or Tuesday, March 26 or 27th or thereabouts, I gave the material to Mr. Kofkin and asked him to compile concentration ratios for the four top firms and the eight top firms from the aggregated data that were included in the BNG tabulation, and to check these figures against—check the data that had been transmitted to us against the data that had been included in the news release.

Mr. Kofkin keeps a diary of . . . some of his work assignments and what he's been doing, and according to his diary he worked on this material on April 2 and he found what he believed to be some errors or inconsistencies between this data and the data reported in the Docket R-405 news release. And he attempted to get in touch with Mr. Mangen in the Bureau of Natural Gas, who had been the individual responsible for compiling the data in the news release and who also had compiled the data which was transmitted to the Office of Economics.

Mr. Mangen returned Mr. Kofkin's call on Tuesday, April 3,³ and said that he would check the apparent inconsistencies that Mr. Kofkin had identified and would provide corrections. Since we were anxious to get this information as quickly as possible, Mr. Kofkin went over to Mr. Mangen's office at 3:30—at that time the Office of Economics and the Bureau of Natural Gas were in different buildings—on April 3 at 3:30, Mr. Kofkin picked up some new numbers—corrections to the tabulation that had been provided us late in March.

Kofkin worked on the material again on Wednesday, April 4, and again found some additional errors. When he attempted to obtain some verification or check on those statistics on or about April 5, he was informed by Mr. Mangen that this was a—my recollection of what Mr. Kofkin told me Mr. Mangen told him—Mr. Mangen indicated to Mr. Kofkin that the security people had in fact destroyed the basic information⁴ and that no further

Q. Mr. Wilson, when we went off the record to change the tape, we were talking with respect to, I believe, Mr. Kofkin's seeing Mr. Mangen on April 5, 1973, and I wonder if you could just run through that once again?

A. I'm not sure that Mr. Kofkin saw Mr. Mangen on the 5th, but he did talk to him on or about the 5th, probably by telephone, and it was at that time that Mr. Mangen informed Mr. Kofkin that further checks, verification, or compilations would be impossible because the security people had picked up the information and that it had been destroyed. I remember, at that time, remarking to Mr. Kofkin that I was very surprised that there were security people in the FPC that did that sort of thing. I'd never heard about it before, and Mr. Kofkin indicated that it was the first that he'd heard about it himself, but Mr. Mangen apparently had given him a rather complete elaboration of how the security people had picked the material up and it was no longer in his possession and it had, in fact, been surprised.

² I [Dr. Wald] did meet with Mr. Joyce—I cannot give you the date . . . but it was probably within a week of [February] 27th . . . following a Commission meeting . . . and told him our need for the data. He then telephoned Mr. Mangen . . . in my presence. There appeared to be some misunderstanding as to what we wanted, and after I'd explained it . . . Mr. Mangen said . . . he could provide the information. . . . I don't recall the description of the data having been destroyed. . . . I don't think that was my understanding of the state of affairs." *Wald*, pp. 53-54

³ I [Kofkin] called Mr. Mangen in the late afternoon . . . Monday April 2d. . . . I explained what the problem seemed to be. He indicated that he'd check into it and let me know. On Tuesday morning, about 8:45, Mr. Mangen called me that the information would be "corrected," *Kofkin Interview*, p. 5.

⁴ I [Kofkin] don't think he [Mangen] said to me *per se*, "It's been turned over to the security people for destruction. I believe . . . the phrase turned over to the security people became tantamount to being turned over for destruction. . . . I don't know if he ever really made clear if it had been destroyed or would be destroyed. . . ." *Kofkin Interview*, p. 10.

Mr. Kofkin did write me a memorandum dated the 6th of April, which indicated why he was apprehensive about using the data that he had received, indicating that there still appeared to be some uncorrected discrepancies and indicating that further checks would be impossible because of what he had learned from Mr. Mangen on the previous day.

Q. Are you furnishing that memorandum for the record?

A. I'm furnishing that memorandum with some alterations so as to preclude the reporting of specific data relating to the Bureau of Natural Gas submission to the Office of Economics on the 21st of March, but with the elimination of two or three figures, I am supplying you with that memorandum from Mr. Kofkin.

Q. Thank you.

A. Upon receiving Mr. Kofkin's memorandum and discussing the situation with him, I sent a copy of that memorandum with a handwritten note to Mr. Wald and to Mr. Schwartz—Mr. Schwartz is the Assistant Chief of the Office of Economics.

Q. What date was that, do you remember?

A. My note to them was also April 6—it was the same day as the Kofkin memorandum to me. I indicated to them in that note my displeasure with the degree of cooperation that was received from the Bureau of Natural Gas in this matter, and Mr. Schwartz received my note first and jotted his concurrence with my views before this note went to Mr. Wald.

Q. Are you furnishing that memorandum for the record?

A. Yes, I am . . . Mr. Wald apparently held onto this note and the copy of the memorandum from Kofkin. He had it in his possession at the time that we were informed that in fact the information that we had received from the Bureau of Natural Gas on or about April 5th was incorrect. We found out that that was incorrect on June 7th—in other words, between April 5th and June 7th, we were under the impression that the data had been destroyed and that the concentration ratios which we had requested could not be provided in accurate form. However, on June 7th, 1972, at about 5:15 in the afternoon, Mr. Maxson, Executive Director of the FPC, came to my office to inquire about the details of our request for data from the Bureau of Natural Gas. After determining what it was that he was questioning me about—it didn't occur to me immediately what data request he had in mind—I told him that we had in fact made such a request in March and that we were initially told that the data had been destroyed. Subsequently Dr. Wald made the request again directly to Mr. Joyce, and then, as I've already indicated to you, on the 21st of March, a tabulation was provided to us by the Bureau of Natural Gas. Then I proceeded to explain to him what, in fact, had happened subsequent to our receiving the information. I told him about our finding discrepancies and so on and our attempts to get those discrepancies corrected. Mr. Maxson then indicated to me that the data had, in fact, not been destroyed—that there had been an attempt made to destroy the data, that sheets had been torn, but that they were repaired and they were in Mr. Joyce's custody. I remember being particularly pleased that the data were still available because I was still interested in trying to obtain those concentration ratios and I—in fact, that's the first thing that occurred to me. I asked Mr. Maxson whether we would be able to now obtain the data, and he saw no reason why we wouldn't be able to, but indicated that this was not up to him, that the request should be made to Mr. Joyce. Subsequently, I did on June 8th write a memo to Mr. Joyce requesting that information, sent copies of that memorandum to Mr. Maxson and to Mr. Forquer, the General Counsel. In fact, I discussed the draft of that memorandum with Mr. Maxson before I sent a copy to Mr. Joyce. He advised certain editorial changes in it, which I made.

Q. Are you furnishing us with a copy of that memorandum?

A. Yes, I am . . . Well, how far do you want me to go in this(?)?

Q. Well, let me go back just a minute. It's my understanding that on April 3rd, at approximately 3:30 in the afternoon, Mr. Kofkin went to Mr. Mangen's office and at that time picked up the new numbers which had been retabulated for him; from the original material, is that correct?

A. Yes.

Q. Now, did Mr. Kofkin indicate anything to you with respect to where that material was at that time?

Q. Yes, sir.

A. No, he did not. In fact I don't believe Mr. Kofkin ever saw it, any of the original material.

Q. So you don't know whether that material was in Mr. Mangen's hands on April 3rd, is that right?

A. That's correct, I don't know.

Q. In your opinion, could the corrections have been made if the material—the original material, didn't exist at that time?

A. I don't understand how the corrections *were* made between April 2nd and April 3rd unless—and April 2nd, of course, is the date that Mr. Kofkin found the discrepancies—unless the data were in Mr. Mangen's hands or in the hands of someone who was performing these computations for Mr. Mangen. On the other hand, I suppose it is conceivable that the Bureau of Natural Gas themselves found some discrepancies between the report they gave us on the 21st of March and the original news release and had made these corrections earlier and simply didn't have occasion to provide them to us until we requested it, because obviously somebody had to make corrections between the 21st of March and the 3rd when Mr. Kofkin picked the material up. Now, April 2nd is the first they ever knew about the discrepancies. Obviously they had to make the corrections on the 2nd and 3rd.

Q. Is that because the corrections would have to be made from the data?

A. I assume that that's the only way they could be made, yes.

Q. So it would be reasonable to assume that on April 3rd the material still existed intact?

A. If Kofkin's call to Mangen was the first knowledge the Bureau of Natural Gas had that their submission to us was erroneous, then the data would have had to exist on the 3rd in order for the Bureau of Natural Gas to provide corrections. As I said already, there's no indication that they did know about the errors prior to Kofkin's call, but obviously if they did, they could have made the corrections from the original data before that.

Q. Well, were the corrections that Mr. Kofkin asked for—were they the type of corrections that could have been made in one day, in your view?

A. I believe they could have, yes.

Q. Now, on April 5th, as I understand your statement, Mr. Kofkin reported to you that Mr. Mangen advised him that the material had been destroyed?

A. Well, I believe I said that on or about April 5th Mr. Kofkin was told by Mr. Mangen this story about how the security people had picked up and destroyed the data. Now, I say on or about April 5th, because it was the 4th of April that he discovered additional errors and it was on the 6th of April that he sent his memorandum in final form to me. My knowledge about the alleged ultimate destruction of these data was the result of Mr. Kofkin's memorandum of the 6th.

Q. Did Mr. Kofkin, either in his memorandum or orally advise you with respect to who had destroyed the material?

A. Only that he said that Mangen had told him that "security people" had taken care of it. As I said, I was somewhat startled by the revelation that there were security people at the FPC that did that sort of thing and I recall a brief conversation with him about who the security people were and he certainly didn't know.

Q. Did Mr. Kofkin report to you knowledge of any sort with respect to who had ordered the material destroyed?

A. No, sir.

Q. Now, after April 6, when you sent your memorandum to Dr. Wald and Dr. Schwartz, from that time up until June 7th, you did not pursue this matter any further, is that correct?

A. Aside from the memorandum to Mr. Schwartz and Mr. Wald, which raised the possibility of trying to find out whether the Bureau of Natural Gas may have had an additional copy of this information which they kept for their own records, I did not pursue it. It was my belief (1) that on the basis of the information that Mr. Kofkin had given to me—it was the story of how the security people had actually taken come and taken the material from Mangen and destroyed it, that the data (1) *didn't* exist and (2) that if there were additional copies of any of this, they would have to be obtained through contacts between Mr. Wald and Mr. Joyce as the original tabulation had been obtained, so between April 6 and June 7, it was pretty much a dead issue.

Q. Now, to your knowledge, did Mr. Kofkin on April 3 indicate to Mr. Mangen that he may need the data again at a later time?

A. I don't know whether he gave any indication of that nature to Mr. Mangen.

Q. And did Mr. Kofkin indicate to you that whether or not Mr. Mangen had said when the data was destroyed by the security people?

A. Mr. Kofkin's memorandum to me dated April 6 indicates that Mangen told him that the data were destroyed "sometime last week." Now April 6 was Friday. If that means literally what it says, that would mean the data were destroyed sometime between the March 26 and 30, but whether that was a precise report from Mr. Mangen as to when the data were destroyed, I really don't know.

Q. Has Mr. Maxson or Mr. Mangen or Mr. Joyce or anyone else given you any kind of a scenario on the attempted destruction of these documents?

A. Well, I've never talked with Mr. Mangen or Mr. Joyce about this matter. On the evening of June 7, Thursday evening, after Mr. Maxson had come to my office and requested information concerning our initial request to the Bureau of Natural Gas for these data, I had a conversation with Dr. Wald in his office, and he had available his copy of the memorandum from Kofkin to myself that I had forwarded to him with my note of April 6. I did not have that memorandum immediately available. In fact, it was still in some moving crates that hadn't been unpacked subsequent to the move of the Office of Economics from our old office downtown to the new Union Center office. I took that copy of the memorandum and my original note of April 6 to—the note addressed to Dr. Wald and Dr. Schwartz—down to Mr. Maxson's office on Thursday evening, sometime shortly after 5:30 I expect, and showed him, and at that time he indicated to me that the data—that an attempt to destroy the data had not even been made as of April 6th, the date of Kofkin's memo and he showed me a typed two-page document which he said was prepared by Mr. Vivian, and was Mr. Vivian's recounting of the consequences surrounding Mr. Mangen's request to have the data destroyed, and it was indicated in that two-page document that Mr. Mangen took the material to Mr. Vivian and requested destruction on approximately April 24, which some three weeks after we had been advised that the data had been destroyed and that further correction or verification was not possible.

Q. Did Mr. Maxson actually show you the memorandum?

A. Yes, sir. He showed me the memorandum and I read the memorandum in its entirety. It gave considerable detail as to the course of events between April 24 when Mr. Vivian allegedly received these documents for destruction and the May 23, when they were again repossessed by the Bureau of Natural Gas.

Q. Do you have with you today a copy of that memorandum?

A. No, I don't.

Q. Did you ask for a copy of that memorandum?

A. No, I did not.

Q. Now, going back to Feb. 27, it is my understanding that Mr. Zabel advised Mr. Kofkin that the material had been destroyed, is that correct?

A. Yes, that's correct.

Q. Do you know, or did you or anyone else advise Mr. Joyce with regard to this alleged destruction?

A. I don't know the details of the communication that subsequently took place between Mr. Joyce and Mr. Wald, but I assume that Mr. Wald in his discussions with Mr. Joyce early in March recounted the futile attempt that we had made to get the data from Mr. Joyce's staff. It would be unusual for a request to take place at the bureau chief level if it were possible to comply with a request at a lower level, and I just assume that some discussion of this may have taken place, but I have no firsthand knowledge of it.

Q. Besides Mr. Wald, do you know if Mr. Kofkin saw Mr. Joyce with respect to the information?

A. I don't believe that he ever did.

Q. Perhaps I misunderstood, but I was under the impression that you indicated that you told Mr. Kofkin to go back and to see the chief of natural gas.

A. No, I never did that. That's not correct. . . . I asked Mr. Kofkin originally on February 27th to check with the Bureau of Natural Gas. Mr. Kofkin interpreted that as a request for me to talk to the staff members in the Bureau of Natural Gas who would be able to provide him with the data we were interested in, and that, of course, is precisely what I had in mind. I never did ask him to talk to the Chief of the Bureau of Natural Gas and I don't believe that he ever understood me to ask him to do that, and it's my understanding he never did.

Q. But you did ask Mr. Wald to talk to the Chief of the Bureau, is that correct?

A. Well, I'm not in the custom of telling Mr. Wald what to do. I told Mr. Wald what our problem was and asked him if there was something he could do about it and he indicated that he thought he could talk to Mr. Joyce and see if something could be worked out.

Q. And at any rate, then, on March 21, is that correct, there was a memorandum to Dr. Wald from Mr. Joyce giving the composite figures?

A. Yes. On March 22 Dr. Wald transmitted such a memorandum to me, and that memorandum was addressed to Dr. Wald from Mr. Joyce and dated March 21.

Q. Now, then, as I understand, on or about April 15, Mr. Kofkin reported to you that Mr. Mangen advised him that the material had been destroyed.

A. Mr. Kofkin reported that to me by memorandum on April 6, and we talked about it on April 6. It was on April 5 or thereabouts, that Mr. Kofkin was informed by Mr. Mangen that the data had been destroyed by the security people.

Q. Did you indicate to Mr. Joyce that it was your understanding that this material had been destroyed?

A. No, I did not communicate with Mr. Joyce on this matter at all. I discussed it with Mr. Kofkin and subsequent to my discussions with Mr. Kofkin, I took the situation directly to Mr. Schwartz and Mr. Wald.

Q. Do you know from your knowledge whether or not Dr. Schwartz or Dr. Wald discussed it with Mr. Joyce?

A. I have no direct knowledge on that. I know that Dr. Schwartz did communicate some of the same thoughts that I had regarding the destruction of documents and our inability to get the information we wanted. He communicated these thoughts to Dr. Wald. I do not know firsthand whether Dr. Wald had any subsequent discussions with Mr. Joyce. I'm not aware that he did.

Q. Did you or did anyone else to your knowledge have discussions with anyone else at the Commission level, the executive director level, the bureau of gas staff level, with respect to these documents after April 6?

A. The only thing that I can recall is June 7, when we were notified by Mr. Maxson—I personally was notified by Mr. Maxson—that the data were still in existence. Between April 6 and then, we were fairly under the impression that the data were not in existence.

Q. In order that we might enter these documents into the record, if you would hand them to me with an identification, then we will make them Wilson Exhibits and that way will hopefully know precisely what we have and what we don't have.

A. Well, I'll try to keep these in chronological order. First one is the FPC new release dated February 22.

Q. Wilson Exhibit One.

A. The second is a copy of the note to Mr. Kofkin which came subsequent to that news release, approximately February 27, instructing him to see if he could get some information on concentration ratios.

Q. Wilson Exhibit Two.

A. Third is a copy of a note that Mr. Kofkin made, pertaining to a conversation with Mr. Zabel from the Bureau of Natural Gas on February 27, which indicates that Mr. Zabel informed him that the data were not available, that they had been destroyed.

Q. Wilson Exhibit Three.

A. Next is a note to me dated March 22 from Haskell Wald, transmitting the information that the office had received from the Bureau of Natural Gas.

Q. Wilson Exhibit Four.

A. Next is the cover memo dated March 21, from Mr. Joyce to the Chief of the Office of Economics, Mr. Wald, which transmitted that data from the Bureau of Natural Gas to the Office of Economics.

Q. Wilson Exhibit Five.

A. Next is a copy of a page in Mr. Kofkin's diary encompassing the dates from April 2nd to April 4th, describing his finding of apparent errors in the BNG submissions and detailing his contacts with Mr. Mangen in an attempt to correct or adjust those errors.

Q. Wilson Exhibit Six.

A. Next is a copy of a memorandum from Mr. Kofkin to myself dated April 6 indicating that some apparent errors still remained in the figures that we had available to us and that further corrections would not be possible because all the records were destroyed and verification was no longer conceivable.

Q. Wilson Exhibit Seven, consisting of two pages.

A. Next is a note from myself to Mr. Schwartz and Mr. Wald, also of April 6, indicating to them that I was displeased that we would be unable to get the measures that we had wanted to obtain because we had been informed that the data were destroyed.

Q. Wilson Exhibit Eight.

A. Next is a memorandum dated June 8th from myself to the Chief of the Bureau of Natural Gas. I might mention that I don't believe that Mr. Joyce was the individual who initially received this memorandum of June 8th reinstating our request for the data. I seem to recall that Mr. Maxson told me that he was out of town and Mr. Greshner was the acting chief. I, in fact, did discuss this matter with Mr. Greshner last week.

Q. Do you know Mr. Greshner's full name and position?

A. No, I don't. His position is the deputy chief of the Bureau of Natural Gas and he was functioning as the chief of the Bureau of Natural Gas in Mr. Joyce's absence, I understand, at the time the Bureau of Natural Gas received my memorandum.

Q. This memorandum will be marked Wilson Exhibit Nine, consists of two pages.

A. And finally I have a copy of a memorandum which is addressed to the executive director from the general counsel concerning answers to inquiries with respect to Commission business, this memorandum dated June 14, 1973, which was given to me prior to my appearance before you.

Q. Wilson Exhibit Ten . . . Mr. Wilson, would you briefly advise us what you did in order to assure that your document return was complete?

A. Well, I—prior to being requested to appear by you, I had attempted to reconstruct from documents as much as possible everything that had occurred concerning our data request in this matter as a result of Mr. Maxson's discussion with me on June 7. He indicated that the FPC itself was engaged in an investigation of this and, of course, I talked with Mr. Kofkin, I talked with Mr. Wald, I obtained documents, and copies of notes and so on from both of those individuals—both Mr. Kofkin and Dr. Wald. I went through my own papers and obtained copies of the documents that I had that pertained to our data request.

Q. And to the best of your knowledge, this return of documents that you have made this morning is complete with the exception of those documents that have been determined "administratively confidential."

A. Yes. Of course, I also write a brief memorandum in longhand for my own record on Saturday, June 9, detailing what had happened between June 7 and June 9, so that my memory of that wouldn't recede over time. I also have those notes myself.

Q. Would you have any objection to us receiving that document, photostating it, and returning the original to you.

A. Well, it's the only copy I have. I see no reason why I can't let you see it as long as you give me the original back.

Q. If that's satisfactory, we'll immediately have it photostated and returned before you leave.

Now with respect to those documents that have been declared administratively confidential, could you to the best of your recollection describe what documents those are that are in your possession.

A. Well, number 1 is the tabulation that was provided to the Office of Economics by the Bureau of Natural Gas under the memorandum dated March 21 that you have a copy of. I'm not providing you with the tables that that memorandum transmitted to the Office of Economics.

Secondly, there is a longhand copy of the corrections to that tabulation which were picked up by Mr. Kofkin on, I believe it was, the April 3 from Mr. Mangen. I have a copy of that and I'm not making that available to you.

Third, I have edited out of the memorandum of April 6 of Mr. Kofkin and myself figures referring to concentration ratios which were derived from the Bureau of Natural Gas tabulation. I think that that's a complete description of what has not been made available.

Q. Once again, we would request that those documents just described which are in your possession and any other documents which you may have bearing on this matter be retained and not be destroyed.

Just a couple more questions, Dr. Wilson.

Has Mr. Maxson interviewed you in connection with the investigation which the Federal Power Commission is making relative to the alleged destruction of documents?

A. He has not, although he has advised me that I will be questioned in interview.

Q. Secondly, have you ever been given any instructions with respect to cooperation with the Federal Trade Commission investigation in natural gas?

A. Specifically with respect to the Federal Trade Commission investigation of natural gas, I have not received instructions as to dealings with the Federal Trade Commission.

Q. What do you mean "specifically"?

A. Well ah . . .

Q. Do you have an understanding?

A. Not with respect to that study, no . . . It's generally understood that if there are requests from individuals in the Federal Trade Commission, for example, I know Michael Mann, who is the Chief Economist of the Federal Trade Commission—if he were to make a request for my cooperation in an investigation, I understand that I would not be able to comply directly with that request but would rather have to report to the proper authorities in the Federal Power Commission and they would have to make a determination as to whether such cooperation and assistance were possible.

Q. Where does the understanding come from?

A. Well, discussions that I've had with a number of people at the Federal Power Commission implanted that general understanding in my mind. I can recall, for example, one specific conversation with Mr. Diener, who is an assistant to the Chairman to the effect that if some request were to come in from Michael Mann at the FPC, that of course would be something that the Commission—proper authorities on the Commission would have to decide whether or not to comply as the case may be.

Q. Have you had such a discussion with Mr. Maxson?

A. No.

Q. Mr. Forquer?

A. No.

Q. Mr. Gooch?

A. . . . I don't believe so, no.

Q. With anyone else other than Mr. Diener?

A. Ah . . . as I would say, it was a generally understood proposition that any official requests for assistance, cooperation, or confidential information from a non-public source, and of course the FTC is not likely to come to us for information from a public source which they have access to, but in general, any kind of a request for our assistance would properly go through other channels rather than go directly to the Office of Economics. That's, as I say, generally understood piece of guidance and I can't really identify one individual as individually responsible for that.

Q. Do you have any such understanding with respect to cooperation with this Subcommittee?

A. Yes, sir, most certainly.

Q. Will you please relate that?

A. Well, as I say, with regard to this Subcommittee and Congress in general, it is understood that particular Congressional requests or information should properly go through the Chairman of the Federal Power Commission and before you agree to testify before your Committee, which I—your Subcommittee, which I agreed to do on the 27th of this month, for example, that sort of a request would be discussed or communicated to the Chairman of the Commission.

Q. Did you receive a letter from the Chairman of this Subcommittee relative to your testimony?

A. Yes, sir, I did.

Q. Was this communication opened when you received it?

A. No, sir, it was not.

Q. Was this communication, to the best of your knowledge, sent directly to you or did it go through the Chairman's office?

A. Well, the communication itself came directly to me in the sense that I believe the envelope was not opened. I received the request, I opened the envelope, and I read it, but the Chairman was aware of the fact that I had received mail from Senator Hart, and I was requested to come to the Chairman's office to discuss that letter possibly half an hour after it was delivered to my office.

Q. Did the Chairman indicate to you how he knew you had received that communication?

A. No, sir, I don't believe that he told me precisely how he was aware of that communication.

Q. Could you briefly relate the details of your discussion with the Chairman relative to your testimony before the Subcommittee?

A. Ah, he read the letter which I received, indicated that he also had received a letter and had been requested to testify, and he thought it was appropriate for me to testify before the Subcommittee, and that my preparation of my testimony and the staff's preparation of his testimony including any assistance that he may have received from other people in the Office of Economics was going to take place independently—he didn't want to know what I was going to say in my testimony and vice versa.

Q. Have you ever been informed or have you ever had any general understanding that interviews in the Federal Trade Commission staff will not be conducted without the general counsel of the Commission being present?

A. . . . Ah, I don't believe so. As a matter of fact, I have had discussions with regard to research that I was doing with members of the Federal Trade Commission staff to see if they were aware of public data sources that would reflect on the research that I was attempting to do.

I, of course, had not worked with them in any way related to things that the Federal Power Commission itself was engaged in, but simply in an attempt to learn about what public data sources they may have come across in their own investigation which would be of mutual interest to myself. There have been other instances in the past, largely under the previous general counsel, not under the current general counsel, in which communications with other Federal agencies were much tighter—controls over communications with federal agencies seemed to be much tighter than they are at the present time. I can recall, for example, a mutual interest that our office had in electric utility antitrust matters that were shared by the Justice Department and the Atomic Energy Commission and an attempt to establish some meeting grounds for discussion of these public issues that were common to the various agencies and we never did get discussions off the ground with the Justice Department. Some discussions were, in fact, held with the Atomic Energy Commission, but representatives of the general counsel's office, were, of course, present.

Q. Mr. Diener indicated that the proper authorities should approve the Federal Power Commission's assistance to the Federal Trade Commission. Did he indicate who the proper authorities were?

A. I don't recall that he did explicitly. I understood that the Commission itself either through the Chairman or through the executive director, or some such authority, would be the appropriate route for those requests from the Federal Trade Commission.

Q. Now, if you're in a situation where the Office of Economics may desire to take a different position than, say the Bureau of Natural Gas or the Office of General Counsel, are you free to take such a diverse position?

A. Oh, I think that would probably vary from situation to situation—oftentimes we do take different positions, particularly in internal communications—one individual, one office may feel one way about a matter, another individual office may feel another way—ah, probably situations where individuals in the same office communicate diverse viewpoints internally.

Q. What about public positions?

A. I would say again, it depends upon the circumstances. By and large, I certainly don't feel severe restrictions on my abilities to communicate diverse viewpoints, that is, viewpoints that are diverse or not fully in accord with that other officials in the Federal Power Commission may have taken.

Q. What role, if any, does Mr. Maxson play in having compatible positions between the bureaus?

A. Mr. Maxson's role is largely administrative. I don't believe that he gets involved in substantive matters to any significant extent. Procedurally if there are differences between bureaus, they're nominally brought to his attention, but it's been my impression that most decisions which come from him have been discussed with the Chairman of the Commission thoroughly in advance.

Q. Do you recall what date Chairman Nassikas called you up to discuss the letter from Senator Hart? The date the letter was received. Did he say anything at that time with respect to the attempted destruction of documents?

A. No, sir.

Q. With regard to the National Gas Survey, did you play any part in that study or survey?

A. Originally none. Some people on my staff have been working with certain groups that had been drafting certain portions of the gas survey, but they function primarily as individual staff members in that capacity. We are at the present time engaged in reviewing at least one draft (?) chapter that I'm aware of, but as far as original input is concerned, I personally have done very little, if any at all.

Q. Have you reviewed that study?

A. Which study?

Q. The National Gas Survey?

A. Well, I don't—that's not the National Gas Survey, that's the gas reserves study that was done by people affiliated with the National Gas Survey.

Q. Well, let the record show that we have just showed Dr. Wilson a rather large volume entitled *National Gas Reserves Study* and let me rephrase my question: Have you been involved in the National Gas Reserves Study?

A. No, sir, I have not.

Q. Do you have any conclusions regarding that study?

A. It's my general impression that that study focuses almost exclusively on proved reserves as of a specific date sometime in 1970, and it's my feeling that there is more to the energy situation hydrocarbon today than is reflected in proved reserves. I have no direct observations on either the way in which that study was conducted or the conclusions arrived at in that study because I was not involved in it.

Q. Well, is it correct that you're Head of the Office of Economics study group?

A. I am the Chief of the Office of Economic Studies in the Office of Economics, yes. There was a representative from the Office of Economics, Mr. Sewell, who is Chief of the Econometrics Division that functions in conjunction with one group that was associated with the gas reserves study, a group that was in charge of statistical estimating devices, and so on, but my division was not directly involved in that study. I knew that primarily as an effort to simply measure something, to collect data, not something that required a great deal of economic policy and interpretation, not that I was requested to participate in that, because it doesn't seem to be something that my division would make a primary contribution to.

Q. Do you know what collecting or reporting role Mr. Mangen may have played with respect to that study?

A. I believe that Mr. Mangen was the individual in the Bureau of Natural Gas that was the primary FIPC officer in charge of dealing with the reserve estimates that came in from the various producers that were surveyed. It might have been he had a very significant role in the data gathering and the data security process associated with that study.

Q. Did you ever attempt to get data underlying that study?

A. We did attempt to get data which that study, which is my understanding, initially was going to report but, in fact, did not. The data that was actually reported from that study are again something in aggregate form, and it is my understanding that the Commission has ruled that the underlying basic data behind those reserve estimates is of a confidential nature and therefore would not be highly valuable to us in efforts to prepare testimony for evidentiary proceedings and our attempt to prepare studies that would be available to people outside the Commission, but there were some supply—future supply estimates that were supplied by individual members of the teams that investigated reserves, and we did attempt to obtain those supply estimates, believing that those were public documents and after some lengthy discussions with people in the Bureau of Natural Gas, we were able to obtain those pieces of information, but I think that's the only information that I personally have attempted to obtain with regard to the National Gas Survey.

Q. In your view, would it be relevant to review the field-by-field aggregates—the responses that were aggregated in that survey?

A. Depending upon what you were interested in, I suppose that there could be situations in which that would be very important. For example, if an objective is to see how closely the figures conform to previous estimates that have been made, by entities other than the Federal Power Commission, and if these other estimates were on a field-by-field, it would be informative, I think, to see the extent to which these figures conformed to the others, not only in aggregate, but also on a field-by-field basis. In addition, I think we would certainly have a great deal more in-

formation about where pipeline networks go, where exploration and development activity ought to take place, if we had information on the individual gas fields rather than aggregate information.

Q. Would that information be relevant to the investigation to determine whether or not AGA's reported figures were accurate?

A. Well, I think that it could be. It would be interesting if there were very close conformity between the National Gas Survey field-by-field estimates and the estimates made by the AGA, for example.

Q. Do you have any knowledge whether or not that material is still maintained or has been destroyed?

A. It's my assumption that it's been maintained. I really don't know, however.

Q. Thank you, Dr. Wilson. Is there anything else you'd like to add?

A. No, I don't think so.

Q. We do appreciate very much your taking your time to be interviewed today. We feel that you've been a most responsive witness. Because this is a preliminary Subcommittee investigation at this time, and because the identity of all the interviewees has not yet been determined and because the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you are requested not to discuss the substance of this interview with anyone other than your personal attorney, and for the record, the time the interview is being terminated is 11:10, and for the record also, if you would be kind enough to stay five more minutes, we will have this handwritten document which you handed us photostated. It will be returned to you and it will be marked "Wilson Exhibit Eleven."

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY STAFF INTERVIEW WITH VICTOR ZABEL, FPC, JULY 25, 1973

* * * * *

[Beginning not recorded] . . . Mrs. Patricia Barrio, Senate Antitrust Subcommittee. Mr. Charles Bangert of the Senate Antitrust Subcommittee. The time is now 11:10, July 25.

Mr. Zabel. I'm going to read from a form and then will give it to you for your examination and consideration:

Since the nature of the conduct being investigated may amount to a violation of one or more federal laws, we believe it only proper that you be advised of your rights. You have the right to remain silent, to refuse to answer any questions which you feel may tend to incriminate you, anything you do say can be used in any other proceedings. You have the right to have counsel of your choice with you during questioning and the right to talk to him for advice before we ask you any questions and before you answer any questions. If you desire to answer questions now without a lawyer present, you will still have the right to refuse to answer at any time. You will also have the right to stop answering at any time until you talk to a lawyer.

And I hand this sheet to you and ask that you read it, and if you agree to waive your rights to have an attorney present during this questioning, please indicate so by signing the document at the bottom of the page.

A. Do I have to waive my rights (troubled)?

Q. The rights we are talking about are the rights to have an attorney present during this questioning, and you can, if you wish, cross out that portion and initial it, with respect to waiving of rights. But what we want to make clear for the record is that you do *not* desire an attorney to be present, if, in fact, you do not desire one, during the course of this questioning.

A. I don't want one now, but I think I will cross this "and voluntarily waive them."

Q. All right. It is clear that you do *not* wish to have an attorney present with you during the questioning, is that correct?

A. That is correct. * * * Right here? (signs)

Q. Yes. Now, Mr. Zabel, we will ask you a series of questions, and we want you to understand that there is no basis for accusation or innuendo or pre-judgment intended. It is only a means of eliciting information from all witnesses and obtaining necessary background information to evaluate all the circumstances involved. And, as you know, the reason that we are here is that the Chairman of

the Subcommittee, Senator Philip A. Hart, has requested staff to conduct an investigation regarding the circumstances surrounding the attempted destruction of certain documents that were received by the Federal Power Commission in the R-405 proceeding. For the record, will you please state your name and address?

A. Victor H. Zabel, 2525 N. Tenth Street, Apt. 717, Arlington, Va. 22201.

Q. Let the record reflect that we have just been joined by Mr. Bernard Nash, Assistant Counsel for the Subcommittee. Now, would you describe the position that you presently hold with the Federal Power Commission?

A. I'm a geologist with the gas supply section of Assistance Operation Division of the Bureau of Natural Gas.

Q. And how long have you held that position?

A. I've been with the Commission eleven years this month.

Q. In that job?

A. I've been in the gas supply section—or some name—they've reorganized recently—it used to be Analysis and Procedure Division and so forth, but I've basically been doing gas supply work ever since I've been here.

Q. And who is your immediate superior?

A. Larry Mangen and Ed Albares.

Q. Do you supervise employees in your capacity?

A. Not on a regular basis, but I go out into the field, I take a crew with me normally, and at that time, I do supervise.

Q. I wonder if you would just give us a little bit of background with respect to the type of work that you perform for the Power Commission?

A. Well, basically it's calculating gas reserves and making studies on trends, reserve additions and sales, revisions—that about covers it. I do quite often appear as an expert witness in hearings.

Q. An expert witness for the government?

A. Yes.

Q. I wonder if we could ask you just to speak up a little bit, so that we . . .

A. Maybe I'll sit up a little closer.

Q. Fine. In terms of calculating gas reserves, how do you go about this?

A. Well, you have to get certain basic factors hat go into it, and whether you're doing the volumetric method or pressure vs. production method—there's a number of methods.

To start out, we try to find out how much data we have to work with, and then we start developing our various factors we have to use in calculation. Now this could be—oh, for the formulae you have to know what the porosity of the reservoir is, how much of that porosity is taken up by water. You need to know the bottom hole pressure, the reservoir pressure, the reservoir temperature. You need to know the type of gas so that we can get a super-compressibility factor. And then we need to know how thick this section is and what area the reservoir covers. And by working through this formula you end up with gas in place.

And then you have to determine just how much of that gas that's in place you're going to recover. And then you determine how much has already been produced as of that date, whatever date you decide. And then you know just how much gas is left, or you've got an estimate of how much gas is left.

If we use the what is called the "pressure decline" or sometimes the "decline" method, that's based on cumulative production up to a certain point and the pressure of the reservoir at that point, modified by the Z factor that takes care of the super-compressibility of it. And you get this at as many points as you can—the more points the better, the more accurate your work is. And then you just construct a curve and when you get down to zero pressure, you know how much gas—or you assume how much gas was in the reservoir to start with. There again you've got a problem of how much value you're going to recover.

Q. So, am I correct in my understanding that you go out in the field and you actually make these various types of tests with respect to various gas fields and gas wells?

A. That's one of my jobs, yes. I go out in the field, and I've been out in the field quite a bit lately. Last year I was almost all year, at periods—out a couple weeks, in a couple weeks, out a couple weeks, in a couple weeks.

Q. Now, this requires, what—special instruments for measuring that the Federal Power Commission has, is that correct?

A. No. No instruments. Well, the only instruments we have are calculators and planimeters, and the planimeter is a kind of mechanical integrator that you run around, and you're probably familiar with and use in a lot of fields, where you

run around your isopack map and you can determine the area of feet, and try to determine the area and the average thickness—the weighted average thickness of that area which goes back to the factor I was telling you about where you need to know how thick the formation is and what area it covers.

Q. Do you physically examine the field, is that correct?

A. No. No, we work basically with electric logs and maps and so forth.

Q. Do you make electric logs?

A. No, No, electric logs are run either while the well is being drilled or after the well is completed.

Q. Who are they run by?

A. Well, they are run on behalf of the producers or the operator of that field. They run Slumber Havens and Lane Wells, and I guess it's Gresher Industries now—there are a number of companies that run these, a number of different curves they get, and so on.

Q. Well, am I correct, then, that you go to the company involved and examine the logs and the various data records that the company retained, is that right?

A. That's right. And as far as the pressure tests, they'll run sometime what you call "bottom hole bomb," which is a pressure recording device that they actually run in the hole. Other times they'll have just a surface pressure when they shut the well in and let the pressure build up. And these pressures, of course, are reported to the States in various forms. I don't know of any State that doesn't require it—maybe West Virginia, although West Virginia is setting up some kind of a oil commission now, I'm not sure.

Q. So you examined the company documents and company logs and that kind of thing?

A. Well that would be the only thing that would be available. The Government couldn't go out and run its own logs—well, the Government could go out and run its own logs, but it would be at a tremendous cost.

Q. But you don't at this point run a log, is that right?

A. We don't. I don't know whether USGS does or not.

Q. Well, that was the next area that I wanted to get into. What kind of coordination do you have with USGS?

A. Well, we do try to get information back and forth with them and I know that on this National Gas Survey, that they actually did calculate some of the reserves for us in off-shore Louisiana.

Q. Well, is this a normal type of practice?

A. Well, this is the first time I recall that any other government agency has done that sort of thing as far as participating in a Commission function that I recall. USGS did some. The Navy in the petroleum reserve section, did some. Somebody else did, but I can't remember who it was. (laughs) But I didn't see their figure when they got done. I don't know what they did actually as far as the numbers. I know New Orleans last summer . . .

Q. Do you know what criteria they followed, USGS and the Navy?

A. I was just going to say I don't know the Navy—on the USGS, I was going to say, last summer down in New Orleans, Larry Mangen came down and we went over—out to the USGS offices at Meterie and looked at their work that they were doing on these fields that they were assigned in the OCS area, and they were doing the same thing we were doing. The only thing was that USGS, as I understand it, on wells that are drilled on federal leases, they get a copy of the log and, of course, they get copies of all the well tests, and so forth.

Q. Well, when you say they were doing the same thing you were doing, namely, GEUSGS, do you mean that they were going to the companies and examining their logs and . . .?

A. No. They had their logs that were run by the companies. They had been given copies, which would be the same thing whether they were in their possession or the companies' possession.

Q. I see. So they were examining the company logs?

A. Yes. There's no other way.

Q. Now, you indicated that you sometimes act as an expert witness in Power Commission cases, and I wonder if you could give us a few of the cases in which you've been involved as a witness within, say, the last three or four years.

A. AR69-1—that's the second Louisiana. I was also in the first Louisiana. And then there was a, I believe, it was 70-1 that was second go round, Permian Case.

Q. Permian Case?

A. That's right. And I was in that. And I think that is within the last two or three years. I've been in virtually all the area rate cases, and I've been loaned to a producer division on a producer case a number of years ago.

Q. Now, briefly, just for the record, describe the type of testimony that you would give during the course of one of these hearings?

A. Oh it would vary, of course. In the area rate hearings I generally did trending of reserves that the pipeline companies had filed and what type of gas it was, if it was associated gas or non-associated gas, or volumes added, or production trends, that sort of thing.

In 69-1 it got a little more involved than that. We had a problem trying to figure out just how much gas *in toto* was involved out down there and, as you know, we only get normally to look at interstate reserves, and deal with only interstate numbers. I'm not a lawyer (laughs), but as far as I can understand, everything in the OCS is federally controlled, and therefore would be inter-state because it would have to come across state lines to get on shore and be used. So, we were trying to find out, in that case, how much gas was out there.

In addition, our basic reserve source is our Form 15, which is filed annually by all the regulated pipeline companies with the exception of the very minor ones—the 15A, I believe, covers the small ones, in not as great a detail as the regular Form 15. So, in the 69-1 we wanted to find out what was out there in addition to the Form 15. So we had a number of categories as I recall. Harrison Direct Industrial Sales are made out there, Chandelier Pipeline Company, I don't know if you're familiar with them—it's Standard of California, or shares, or whatever it is. They own their field, they've got a pipeline, they take it into a plant for feedstock and so forth. And there's another one, I believe with some Florida concern, power company, I'm a little vague on that one—transport for Southern National or somebody (?).

Then, in addition to that, there are certain amounts of gas that are needed by the producer and the pipeline company just for company use, fuel, shrinkage, lease use, and that sort of thing. So we wanted to find out what kind of lines were involved there. Then we had certain volumes in Form 15 called Warranty Contracts, where there basically is no data that we had behind it to check out these reserves. It's just that the producer tells us on his own warrant, "I'm going to give you gas in one or two or three delivery points for so many years." So we wanted to find out actually how many reserves were behind these warranty contracts, so we had a questionnaire out on that.

Then we came to these uncommitted reserves. We knew that, everybody knows that, if you get some gas, it doesn't start flowing to the market the next day. There's a period of time when this gas is not produced, either while this field is being developed, the field developed in outline, the contract with the pipeline and then both the producer and the pipeline filing with the FPC and the FPC going through it sometimes just by normal procedure and sometimes with a formal hearing. So, we knew that there were some reserves out there that weren't being reported to the Commission, and so there was a questionnaire on that.

I think that covered it all—if we added it all up, that would come up with what was the total reserves on the off-shore. On-shore we couldn't do it because there is not intra-state gas there and we had no way of getting the data on it. It's strictly controlled by the State. It's produced on shore and sold back there in Louisiana, so we had no way to do it.

Q. And what you did, then, as I understand it, in these various areas, you either sent out questionnaires to these various companies and asked for reports, or perhaps in certain instances went to the companies and examined logs, is that correct?

A. Ah, this was all taken out of Form 15.

Q. I see.

A. Plus, these questionnaires were turned in—

Q. I see—

A. And the Uncommitted part was handled a little different than that and then, I don't know how it came about, they decided we were going to go and audit those things, so we had to go out and audit that. In this case, we did go to the company also to go through their records also and make our own estimate of reserves.

Q. OK. Now, basically why do you give such testimony? What relevance is that testimony with regard to a rate hearing?

A. Well, I'm a rate man, but as I understand it, you've got so much cost, you've got so much gas, and that determines what the cost is per mcf. We've got lease acquisition, geological and geophysical expense, drilling expense and dry hole expense, and operating expense, and overhead and taxes, and it seems to me there's a whole page of different things that go into it.

Q. Well, as a general rule, is it correct that the less reserves there are, the higher the prices will be?

A. Just as in apples, buy apples.

Q. The supply and demand situation, is that right?

A. Well on that, it's a cost situation. Demand doesn't come into it at this part at all. It seems to me that they have an incentive factor that they throw in, which may have something to do with the demand situation there, given more exploration, money, something, I don't know. See, I don't get into that part at all. I just sit around at meetings and hear other guys talking about it.

Q. OK. Now, would you detail a little bit your previous positions and length of employment that you've had prior to coming with the Federal Power Commission?

A. Do you want me to go back to college and start there? I got out of the University of New Mexico in 1949, B.S. degree in Geology, and I worked for a year in Carlsbad Caverns, National Park Service, lecturing on the geology of the caverns on tours. And then I went back to graduate school, professor of mine got me a scholarship and I went back and put in a year of graduate work and then I went to work for Burg Rawlins Incorporated in (?) Randall, Colorado, an independent producer. I was with them for about five years, something like that, and then I went to work for Pacific Northwest Pipeline Corporation. Wait a minute, now, in between, this Burg Frost outfit reorganized and changed their name to Three States Natural Gas Company, but it was basically the same group and in May of 1955, I think it was, I went to work with Pacific Northwest Pipeline Corporation and I started out as district geologist, and in July or August, I believe, of 1956, I was promoted to Manager of the Geological Department and moved up to Salt Lake City with their head office. And I stayed with them until the El Paso Natural Gas Company merged them out and I ended up in 1960 down in El Paso, worked a couple of months for El Paso natural and I said that wasn't my cup of tea, so I went up to Santa Fe and was in business for myself for a couple years.

Q. Doing what?

A. Consulting—(?) geology. And business was pretty slow, so I saw a notice that FPC was hiring and I wrote them a letter and they said, "Come on up," and I joined them prior to the 4th of July in '62. Now, I had known the Federal Power Commission because I used to—I was with the Pacific Northwest, I used to come up here and testify against them, so they knew me. I assumed they had some idea what kind of work I did. And I've been here ever since.

Q. Yes. Who specifically hired you at the Federal Power Commission, do you recall?

A. Well, of course, it went through the personnel people. A fellow named Cannell—a man named Mike Hamilton was the man that recommended me.

Q. And his position was?

A. He was near head or assistant head of the gas supply section at that time—I forgot what the exact title of the section was. He has since retired.

Q. Now in addition to the compensation which you received from the Federal Power Commission, do you have any other source of income such as stocks, bonds, or other holdings, etc.

A. No. I've got a savings account and I've got six shares of AT&T and I draw a disability as a result of war wounds.

Q. But you have no stocks or bonds holdings in oil or gas producing companies?

A. No.

Q. Do you have any vested or unvested pension rights, insurance plans, retirement benefits, or other financial arrangements arising out of previous employment or from sources other than your own personal finance?

A. No—there was a—money I put into Pacific Northwest for retirement, and that was turned over to El Paso, and when I quit and went into business for myself, I withdrew that—I withdrew that. I don't have any help from anybody—except the Civil Service retirement benefit.

Q. Yes.

A. My army Veterans' Administration pension right, I guess you'd call compensation.

Q. Do you have any relatives working in or for or representing in any capacity the oil and gas industry?

A. No.

Q. Did you ever receive any honorarium, gratuities, transportation expenses, gifts, or any other thing of value, more than ten dollars in value, from oil or gas companies, officials, or representatives thereof?

A. At what period?

Q. From the time you've been employed with the Federal Power Commission?

A. Oh, no! In fact, when I was with producers and so forth, the service companies, you know, at that time, drillers(?) they'd come around at Christmas time and give you a smoked turkey, or something like that, but since we've been with the government, nothing. In fact, people are kind of scared of that, I think, that they might be involved in that kind of thing. We don't even let them buy us a cup of coffee when it's coffee break time. In a few companies, coffee is free to the employees, and there's no way you can pay for it, and that would be the only instance of accepting a cup of coffee, but no dinners, no lunches, no entertainments, we won't even let them drive us across town. It's one of these things (laughs), maybe they kind of think we're funny and they get annoyed with us sometimes, but most of them understand, at least the ones that I've dealt with.

Q. Now, is there a rule in your office about that?

A. There must be. I don't ever recall seeing a rule. We were always told when out in the field the guys that work with me, there's no way you're going to accept a lunch or anything else. Now, if we go out to lunch and the guys want to join us for lunch, everybody picks up their own tab. There must be a directive on something like that.

Q. You don't recall seeing one?

A. No, but I'm sure there must be.

Q. Have you had any discussion regarding future employment service, even of a casual conversation or nature, with anyone in the oil or gas industry?

A. No.

Q. Are you a member of the AGA?

A. The AGA?

Q. American Gas Association?

A. No. That's distributors and pipeline companies and that type of thing. I don't know if it's producers. Basically, it was an organization started by distributors, as I recall the history of the thing.

Q. But this is not an organization open to government employees, is that your understanding?

A. I don't think it's open to anybody to unless they're involved in the distribution, transportation, or in the oil business somehow or other. (?)

Q. Now, have you discussed your appearance here with anyone prior to entering this room?

A. Well, my supervisors know I'm coming over here (?) and my wife knows I'm over here—she works at the Federal Commission too. And the other people that have come over here know I'm coming, or some of them do,—other than the fact that I was coming over, that was it.

Q. Well, let's start with your superiors. Have you had any discussion with your superiors relative to your coming and being interviewed?

A. Only that I was going to come and when I was coming. I had to tell them. I also told the Division Chief I was coming, in case he came around looking for me for some project and I wasn't there, he wouldn't think I was off goofing off some place. Other than that, as far as any content or that sort of thing?

Q. Yes.

A. It's on R-405, I know that, because the executive director had me up in his office talking to me about it to make a deposition on it, and I assumed he might even have sent you that. I didn't get a copy of it.

Q. You talked to Mr. Cornelius, is that correct?

A. That's right. He's our division Chief.

Q. Let's go over that conversation. What went on there and when did that conversation take place?

A. Mrs. Barrio called yesterday and then I saw him later in the hall and I said, "I'm going to be going over to the Subcommittee thing tomorrow about 11:30 and I won't be here in the office after that point until I get back."

Q. Was that the extent of the conversation?

A. Yes.

Q. All right. Then, Mr. Albares—did you have a discussion with Mr. Albares?

A. I told him I was coming over, and he'd been off on military—this two weeks thing, and Monday he came in and he said, "Have you been called over yet?"

And I said, "No, I haven't heard anything." And I said, "Have you?"

And he said, "No."

And then yesterday when you called, I told him I had been called and I would be up here today.

Q. Now, you had a discussion with him yesterday, at which time you told him that you were coming over today?

A. Right.

Q. And was that the extent of that conversation?

A. Yes.

Q. You didn't go into any detail?

A. He said he hadn't heard when he was supposed to come up, if he was.

Q. Now, did you talk to Albares before yesterday about the possibility of your coming over here?

A. It was mentioned I'm pretty sure, because there was a couple of notes on my desk when I got back from Houston—that somebody had called—Mrs. Turner, I think—that she had called on a Friday and again on a Monday and they knew I was going to be gone.

Q. And so what discussion took place at that time?

A. They just said they didn't know what I was going to be asked, but it apparently had to do with this uncommitted reserve thing in the papers.

Q. Well, did you have any detailed discussion with him?

A. Oh, no. We were wondering what it was all about, and that sort of thing and he didn't seem to know either. I didn't know what to bring up here or anything like that. Nobody else seemed to know either. I just came, and that's about it.

Q. So that, with Albares, your statement is that you had no discussion with him of any detail, is that correct?

A. No, other than that I was coming up here.

Q. Other than notifying him that you were coming?

A. Yes and wondering when we were coming.

Q. How about with Mangen?

A. About the same thing—going in around in the office—we're all up there together.

Q. Did Mr. Mangen tell you he'd been up here?

A. Yes.

Q. Did he tell you what kind of questions to expect?

A. No.

Q. Did he tell you why you were being called up here, what part you may have played in this thing?

A. No, not him.

Q. Did anyone else tell you that?

A. The executive director had me up in his office

Q. Mr. Maxson?

A. Yes, and Mr. Forquer . . . took the deposition.

Q. What did they say?

A. Well, that somebody had said I'd told them something about records being destroyed, and so forth, and they questioned me about it.

Q. And they took your deposition at that time. Did they have any further detailed discussion with you other than taking your deposition and initially telling you why they were taking your deposition?

A. I haven't seen either one of them since.

Q. No, but at that time—at the time they took your deposition.

A. Well, the day before, Mr. Maxson called me up in his office the day before and told me what was going on and that they were going to take my deposition.

Q. Well, what did he tell you with respect to what was going on?

A. That this investigation was going on and they were going to find out if I knew anything about it, and so forth—if I knew a guy named "Hopskin" or something like that. I didn't know the fellow at all. And if I had talked to him, and I said, "Not that I remember," and then we went outside he was going to take my deposition.

Q. Now, you indicated that you advised Mangen. Did you have any other kind of conversation with him, other than merely advising him?

A. No. That was it.

Q. How about Mr. Pavetto? Did you have any conversation with him?

A. He stuck his head in the door yesterday and said, "Are you going up yet?" And I said, "Yes, I'm going up tomorrow."

Q. And that was the extent of that conversation?

A. Yes.

Q. How about Mr. Joyce?

A. I haven't seen—you mean Tom Joyce?

Q. Tom Joyce.

A. I haven't seen him, other than passing him in the hall, for—must be before I left for Houston.

Q. Well, did you have a conversation with him at any time with respect to the possibility of your coming up here?

A. No, I don't think so, because this came up after I'd left town, and he's been out around on vacation and out of town on business, and I don't very often see Mr. Joyce. Last time I talked to him, he wanted—some project he wanted me to do—405.

Q. How about with Joyce Powell—did you have any conversation with her?

A. About the same as I had with Carl Pavetto. In fact, she'd been up and I asked her if you'd indicated when you wanted to talk to me, and she said, "No."

And I said, "I'll just wait." And I saw her this morning and she wanted to know if I'd been called yet.

Q. Now, did Mr. Pavetto or Miss Powell tell you that they'd been up here?

A. Oh, I knew they'd been up here.

Q. Did they tell you they'd been up here?

A. They told me they were going.

Q. Did they talk to you with respect to what the questioning was about?

A. No.

Q. Now, did you ever discuss with any one—either your superiors or your co-workers—anyone in the Federal Power Commission, what this investigation was about and what was going on during the course of the questioning—general discussion?

A. Yes, well there was a *lot* of discussion because of the newspaper publicity. Everybody was talking about it—about it being Watergate Junior, and that sort of thing—mostly in a light vein, that stuff. Nobody seemed to know what was going on—just what we read in the papers.

Q. Now, after you read this in the paper and after you were advised by the executive director that we wanted to examine you on this, did you have a conversation with anyone at which time you attempted to reconstruct the events leading up to this investigation?

A. Reconstruct the events leading up to this investigation?

Q. Right. In terms of what your involvement may or may not have been, or what Mangen's involvement may or may not have been . . . ?

A. I don't quite—we all—there was talk about it, wondering what went on and who was involved, and so on.

Q. Well, you know, for instance, that there's been a sworn affidavit given to the effect that you advised Mr. Kofkin that documents in this case had been destroyed.

A. I don't think I did.

Q. I understand that you don't think you did. Did you have discussions with anyone with respect to that sworn statement of Mr. Kofkin's or with respect to whether or not you had talked to Mr. Kofkin relevant to document destruction?

A. Well, I talked to my wife about it. And a fellow in my office.

Q. Who was the fellow in your office?

A. Duane Thompson. I was trying to find out who Kofkin was. I asked George Duncan over in Economics who he was, and . . . I'm still not sure. Somebody pointed the guy out in the cafeteria one day and said they thought that was him.

Q. Did you have any discussion with Mr. Mangen about this?

A. No. He—just to mention about who this Kofkin was, does he know him—I don't know whether he does or not. He didn't say anything as far as I could remember.

Q. And Mr. Mangen at no time came to you and said something to the effect, "Hey, what's going on here? Did you tell this Kofkin fellow these documents were destroyed?"

A. No. He never said that (laughs).

Q. No one ever asked you that?

A. Leo Förquer did and the Executive Director did.

Q. But none of your superiors did?

A. No.

Q. They didn't show any interest in ascertaining whether or not you did talk to Kofkin?

A. No, I think they were staying out of it, I guess. Mr. Albares never said anything about it, Mr. Mangen didn't say anything about it other than when I asked him if he knew the guy.

Q. And it's your statement here that none of your superiors ever made any inquiry with respect to whether or not you actually did talk to Kofkin?

A. No.

Q. No, they did not?

A. I don't believe so. I do know that Leo did and that the ED did.

Q. And at no time, out of curiosity, did you go to anyone else and say, "I wonder why I'm involved here?"

A. Yes!

Q. Well, who else?

A. I asked Mangen if he knew the guy and wondered how my name would have gotten into the thing, and asked George Duncan if he knew the guy.

Q. Well, then you did have some kind of discussion with Mangen with respect to why you were involved in it?

A. Only that comment.

Q. Well, what you're telling me is the only thing that happened is that you went to Mangen and said, "Hey, who is this fellow—Kofkin?"

A. Well, I don't know. There may have been some other discussion. There's been so much on this thing, it's got us all worried. I'm trying to figure out what in the world I got involved in this thing for, and if there's any discussion, I just don't recall too much of it.

Q. Well, what do you recall?

A. Well, just what I told you about Mangen and the guy that shared the office with me sitting around in the corner about this guy, why he called me, if he did, and how I got involved, and I asked George Duncan about this fellow.

Q. Now, who shares your office?

A. Duane Thomas.

Q. Duane Thomas. Now, you and he and Mangen sat around and talked about it, is that right?

A. No, Mangen was in and out, and I don't know whether he was there at the time but he did—this time when I asked Mangen, he knew the guy.

Q. Well, what did he say—what did Mangen say?

A. Ah—he said—I don't really recall—he said he thought he knew who the guy was, or that he was just one of the guys over in Economics.

Q. You're telling me that's the sum and extent of the conversation?

A. (Laughs.) As far as Mangen is concerned, I never get too much out of Mangen. But as far as the rest of us around the office, and it's pretty common knowledge that the stuff's been in the paper and who was involved and so forth, there was some discussion, as I say, on it with these various people.

Q. And if I recall, the first time I asked you this question, you indicated you had simply said to Mangen something with regard to "Who is Kofkin?" and Mangen hadn't responded, is that correct?

A. Well, he responded, other than that he thought he knew him, or something like that, nothing of anything that impressed me very much.

Q. Well, after having your discussion with Mangen, did you come to any kind of a conclusion either tentative or otherwise, with respect to why you were involved here?

A. The only reason I can think is that I try to cooperate with the guys around the Commission, if they want any information that I've got, and people in Economics, generally it's George Duncan or Ralph Johnson, some of those fellows, call me and ask, "Have you got any dope on this or any dope on that?" and if I don't have it, do I know where they can get it, when it comes around to gas reserves or that sort of thing, and that somebody could have given this Kofkin my name, because he was looking for a contact, I suppose, over in gas supplies—gas reserves.

Q. Where is your office located with respect to Mangen's?

A. It's on the same side of the building—it's about—one, two, three, four down.

Q. Now, how about Joyce Powell—did you go to her and inquire what she knew as to why you were involved here?

A. No. Joyce is a statistical clerk and I don't think she'd know anything about why I was in on this.

Q. How about Carl Pavetto?

A. I don't think he'd know anything about me at all.

Q. So you didn't go to either one of them and ask them anything about it?

A. No, I was surprised that they were both being involved.

Q. Well, would you be surprised to learn that both Joyce Powell and Pavetto in their interview indicated that you did ask them about why you were involved?

A. I sure would. I told them I didn't know why I was involved. . . . I don't know why I want to talk to them on something like that. Of course, everybody's been talking to everybody, that's been told they were going to be called up here, and I wouldn't have asked them why I was involved. I might have *told* them I didn't know why I was involved in that sort of thing. I don't know as I would have asked *them* why I was involved. I don't know, as I say, Joyce is a statistical clerk over there and I didn't even know Carl had even done anything on this until this thing came up. . . . It caused quite a bit of excitement.

Q. Well, that's what—I wish you would reflect your recollection on this because I can appreciate that this would have caused considerable excitement at the Power Commission, and yet, at the same time, there was an allegation made that you had indicated that these documents had been destroyed, and yet, with all the excitement that it's caused over there, apparently there weren't any conversations with respect to how in the world you got involved here?

A. Well, there were those I was telling you about with Mr. Mangen and my office mate and some of the other people sitting around the office building.

Q. Did Mangen ever suggest that perhaps you may have answered the phone in his office?

A. In *his* office? No, no. You're talking about when the guy called me, if he did, and he may well have, I don't know. We were over in, this as I recall, took place last winter sometime—supposed to have taken place last winter. And at that time we were over in the old GAO building—we hadn't moved over where we are now, and Mangen had an office by the window, right here, and the rest of us are out here in the bull pen, type of thing. And on occasion, I would get a phone call and something that I wouldn't have any knowledge of, and I would literally yell, "Hey, Larry, get on my phone." He had on his phone buttons with some of the other extensions on it and he had one on his phone with my extension on it. I'd say, "Get on my extension and talk to this guy," if it's something I don't know anything about or can't answer. Now, this may be where this Kofkin could have got it, because I didn't know what was going on in this other deal at all. I was involved in a lot of other things besides that. Not "besides that,"—I wasn't involved in that thing at all. And he could have called me about it and I could have said, "I don't know—you'll have to talk to Mangen about it, and hollered to Larry. I wouldn't even have to give him Mangen's phone number or transfer the call or anything else. Mangen would just pick up the call and say, "Hello," and I'd hang up and he'd talk to the guy.

Q. Now, this *may* have happened you say?

A. Yes. It sounds familiar—it didn't impress me, if it did, it didn't impress me enough to remember it.

Q. Well you say it sounds "familiar." What do you mean, it sounds "familiar"?

A. It's just something faint (?) that somebody called up about some of those things. . . . Well, about this particular thing, it's a very faint recollection, but—this has happened on other things, too—they'd call up Mangen—and I'd say I don't know much about that you'll have to talk to Larry, and I'd be yelling there and telling him to pick up the phone.

Q. But, you think something like this may have happened in the winter of 1973, is that correct?

A. I have a real faint recollection that it's one of those deals they call up and I'm working on with one hand, and I say, "Yeah, I don't know anything about that—Larry, get on it!" and hang up the phone and go back to my work.

Q. But that does ring a familiar bell, is that right?

A. It kind of does, but I—I—I'm just not sure enough of it to make a statement. There was no way that I had anything to do with that other stuff—I wasn't with that uncommitted thing in this particular case. The only uncommitted reserves I ever worked with was that AR-69-1, which was that South Louisiana uncommitted reserves only.

Q. But you can't make the statement that you did *not* talk to Kofkin, is that right?

A. No. Because I may have, I may not have. A guy called me up with an unfamiliar name—it didn't mean anything to me. He said he worked for the Commission—guys call up from other offices and bureaus. I don't know—the names don't mean anything to me. If I've got the information, I let them have it. If I don't, I try to tell them where they can get it.

Q. And your feeling is that for some reason, this does ring a familiar bell?

A. It does. It just sounds like something that would happen.

Q. It sounds like something that could have happened, is that what you say?

A. Because I do know I have referred calls to Mangen that way, just holler at him.

Q. Now earlier you said that could have happened in the winter. Now, what makes you think that could have happened in the winter?

A. It's just that—ah, it just seems that it was after I'd gotten back from most of the gas survey.

Q. Now, in the winter, was the Bureau of Economics trying to get any other information from you, in the winter of '73?

A. I'm sure they did. Ralph Johnson would call and come over, and George Duncan and I were working on kind of the same project from different angles, and we were getting together on that, to make sure we didn't get our records fouled up and basic data go wrong, and—

Q. Well, was anyone in the Office of Economics who was *not* familiar to you trying to get information on any other subject during the winter of '73?

A. As I say, I don't know—

Q. That doesn't ring any bell?

A. The Office of Economics (still pondering) . . . as I say, I have taken calls like that and hollered in to Mangen during the time we were over there, a year or two. I think it rings a little bit of a bell, but I can't say to you, I mean, I—I think I know what you want me to think, but I just can't (nervous laughter)—I truthfully can't say that I got that call and—and transferred it to Mangen.

Q. I'm not trying to get you to say anything. All I'm trying to do is to get you to plumb the depth of your memory.

A. Well, I've been trying to do that too, ever since this thing . . .

Q. What's your extension in the old GAO building, when you were there?

A. I think it was 3991.

Q. What was Mangen's, do you know that?

A. Ah—I've got it in my pocket, because when I'm out of town, I have to call him—I think it's 6—don't remember—

Q. Do you have it now in your pocket?

A. Probably do . . . I don't think it's changed since he moved over to the new building. (searches) Yeah, uh-huh—202-386-6172—I don't know—

Q. I'm sorry.

A. Oh, you don't want the area code—uh, 6172.

Q. 6172. And yours was 3991.

A. Yes. At that time, as I recall, it was.

Q. OK. Now, when you were in that GAO building, did you ever get phone calls that you didn't know the answer to, and you'd yell over to Mangen and he gave you the answer and you relayed it?

A. No, usually if he got on the phone, he'd give them the answer, I assume. That's the only thing I can figure. I don't recall him—I really don't know.

Q. Now, have you seen this note that was extracted from Kofkin's files, that was made contemporaneously on Feb. 27, 1973, with an alleged telephone call to you?

A. Mr. Maxson showed it to me.

Q. Mr. Maxson?

A. I believe it was Mr. Maxson or Mr. Forquer.

Q. Then you know that this note says. "Per Vic Zabel, extension 3991, who collected data, 2/27/73. Data was confidential by terms of original order and has been destroyed."

A. If he was talking about any data I collected, that was that 69-1 and I've had a lot of calls on that, but, ah—apparently he created kind of a stir about it (?) even Jack Anderson put my numbers in his column.

Q. What numbers?

A. From AR69-1. . . . And if he called me about any uncommitted reserves that—I'm thinking that AR69-1 was the first time that we'd ever gotten ahold of

that sort of stuff and the fact that I was the one that did the auditing on it—reserve auditing. And a series of articles in Anderson, you know, had to do with Dr. Wald's memos, or something about ah, the AGA numbers and the numbers I had, because this actually this was the first time we'd ever gotten what we considered was the complete gas reserves in any area, notwithstanding any inter—*intra-state* or anything else. We thought we had some kind of an estimate of all of it, and then the AGA reserves was supposed to cover *all* gas, whether it was intrastate, interstate, no matter who it was by, and they had a figure for the off-shore zoning, federal zoning, that we thought could tie against, with this data. So if anybody talks about data *I* collected, if it was with reference to uncommitted reserves, that was the only thing I'd ever collected.

Q. OK. But, do you remember Kofkin talking to you with respect to AR69-17.

A. I don't remember him talking to me on anything. If he'd asked me about uncommitted reserves, I'd collected data—well I didn't *collect* it—it was sent in by order of the examiner of the Commission. It was done by questionnaire, it went through some independent, I believe it was Arthur Young of Potomac (?), fellow named Don Auten, and it was collected that way. I did the auditing, and I went out and when I got through with a company, my orders were "Destroy it." I called the numbers in to Mangen and—

Q. Who gave you those orders?

A. Well, I got it from Mangen. I think it was probably the Commission order or something about, either a Commissioner or an examiners' order—but there was an order on it.

Q. Do you know that for a fact?

A. Well, I think there was. All I know is I was told to get rid of them.

Q. At any rate, Mangen was the one who told you to destroy it?

A. Right. Now, he's got testimony on that in the 69-1. He went on right ahead of me in that particular phase; I was on twice on that one. I was in on this other material that I put in, (?) trends and so forth. There was one exhibit, but it was updated. The thing dragged on and I managed to get another year's data and stuck it in and updated it.

And then I had another—prepared testimony on this audit, * * * and I was cross-examined separately on that.

Q. Were you actually out in the field at that time, visiting companies, is that right?

A. Yes. I left the day after the 4th of July, this was in 1970.

Q. When did you get back?

A. Oh—last part of August, first part of September, somewhere along in there.

Q. And how many companies did you examine?

A. I think maybe—it's a stretch back there. . . . let's see. I went to New Orleans first—there must have been a half a dozen or so there—

Q. Half a dozen in New Orleans?

A. At least. And then I went to Houston and did several there.

Q. How many in Houston?

A. I can't recall.

Q. More than half a dozen?

A. Seemed to be a few less. Most of them seemed to be in New Orleans, and—

Q. Four, maybe, in Houston?

A. I don't know.

Q. Less than half a dozen?

A. Probably.

Q. More than two?

A. Yes, it was more than two. . . . Then I went to Dallas and did a couple or three up there—

Q. Two or three in Dallas?

A. Went to Oklahoma City and did one or two and then went over to—

Q. One or two in Oklahoma City—

A. One, I think, in Tulsa—

Q. One in Tulsa—

A. And then I came back. And then . . . in Mangen's testimony, if you want the exact number, I think he has the number—or Don Auten—he had testimony in there too, and he had the number of responses—total number.

Q. Now, did you examine these companies with other employees of the Federal Power Commission or by yourself?

A. No, no. I prefer not to go into anybody's office alone, without a witness there. I'd also like somebody to argue (?) with or to consult with. I went down—I drove down because I was figuring I was going to be gone all summer, and I didn't want to be without transportation, and then—I forget whether Jim Hicks or Wayne Thompson came down first. And then later on Russ Linball came down. I just stayed down—I just stayed out, and they'd come down for two or three weeks each, and then go back.

Q. So you sometimes had one and sometimes two.

A. No, only one.

Q. Only one person.

A. The only time—oh, there might be a day there when they overlapped when the new guy came in ahead, and then he'd be there until the other guy—the other guy would leave just the next day or the day after.

Q. You left the day after the 4th of July to New Orleans?

A. Yes.

Q. How long did it take you to drive down to New Orleans?

A. Oh, a couple of days.

Q. A couple days. And then you'd drive from New Orleans to Houston. How long did that take?

A. Oh, that seemed to me it was around—about ten or twelve hours—it's not a bad drive—interesting country.

Q. Did you drive direct or did you stop to see the country?

A. No, just drove through it. It was hot and I don't have an air-conditioned car. And it took me another day to get to Dallas, and then another day to get to Tulsa—I mean, Oklahoma City, and then about two, three, or four hours between Oklahoma City and Tulsa.

Q. What would you estimate your total traveling time on that trip, from Washington to Washington?

A. Actual on the road?

Q. Actual on the road? A week or a week and a half? Two weeks?

A. Oh, no. It wasn't two weeks. . . . About a week.

Q. About a week?

A. Yes.

Q. Now, did you have a schedule to meet in terms of auditing all these companies and getting back?

A. A schedule? No—you mean, did I only have to do it in so much time?

Q. Yes.

A. No, they didn't set any deadline on me. Of course, they wanted to get the case set up and ready to go, and since this was part of it, I was—just one part of it, and . . . I just took the time I needed.

Q. You weren't limited in the amount of time that you could spend in each company?

A. We made an estimate, tried to figure how long it would take—I think it was maybe based on four hours per reservoir, or something like that. Sometimes it wouldn't take that long, and sometimes it would take a little longer.

Q. Now, were you able to finish, to your satisfaction, the audit of each of the companies?

A. Yes. It was a sampling type thing, as I recall—some of the statisticians worked up. I don't recall all of the exact details of how we did it. It's all in the testimony.

Q. How were those selected?

A. Size range, I believe.

Q. You looked at the big ones?

A. We always looked at the big ones, as I recall, and then we did it by size. So many of these statisticians (laughs)—I don't know, I didn't understand it all. I was told I would get the reservoirs from the companies, as I recall—they would list them. Then I would get this note that I had, or piece of paper I had written down on what statistician had told me the way to do it, and I would do it and then they got these reservoirs, and checking out the reservoirs on them. Now, some companies only had just (laughs)—just the one. There were a lot of just one-well deals—one completion, or sometimes not even a completion, just an exploratory well that had found some gas, there had been nothing more done.

Q. Well, how did you determine which was the largest?

A. We used the company figures. See, the company had an estimate. This was what I was auditing was the company's estimate.

Q. Yes, sir.

A. And they, I believe, reported that stuff on questionnaires (doubt) sent to Autin, and I think they just said, so many reserves from this company on-shore, and so many off-shore, and total for South Louisiana rate area.

Q. And they gave you the estimate of what reserves were?

A. Yes.

Q. In each of those reservoirs?

A. No, no. Total.

Q. Total?

A. Total. And then when I went out, they were instructed to have a list starting with the largest, working down to the smallest.

Q. OK.

A. See? And then one of the things—that this kind of comes back to me—one of the things that they would do—that I was supposed to look at, they filed this—ah, questionnaire with this guy Autin—gentleman, Autin—in Tulsa, and then he tabulated them.

Q. And he was an independent consultant?

A. Accounting firm.

Q. Accounting firm?

A. I think it was—is there an Arthur Young?

Q. Yes, sir.

A. I get mixed up between Arthur Young and Arthur Henderson, but I think it was Arthur Young.

Q. Yes.

A. And then he sent them back to the company and then, for some reason or other, I think it was when they decided to make an audit of them, the company sent these same forms to Mangen, and—it had to be the same form because it's supposed to have Autin's stamp on it, and then he went through and made totals—Mangen went through and made totals, as I recall now, and—to see how it compared to Autin's totals, and then he stamped it, or initialed it, or he did something, and then he sent it back to the company. Yes, so when I went to the company I was to see their reserves as they reported them, and it had to have Autin's and Mangen's stamp on it, and then they would give me the backup behind that by reservoir, if it was one reservoir or two, or—

Q. Now, they gave you backups for *all* reservoirs, right?

A. For the reservoirs that they had turned in on this noncommitted, see and I would get on the adding machine and just make sure, just add it up to their number on—that they had turned in for their totals, you see. And then, I would go through this little sampling process and then (?) I want to see all your dope on this reservoir, this reservoir, this reservoir, this reservoir.

Q. Now, did you take—did you sample all the large reservoirs, is that right?

A. As I recall, in my instructions, do the biggest ones—always do the biggest one. And then there was this sort of up and down theory.

Q. Well, the biggest one, or the biggest ten, or how—

A. Well, there was—as I recall, there was a range—they had a range. We had a—they took the Form 15 and had a printout of all the reservoirs in the Form 15's, just as to size, and had the computer guys list them—I think you've probably seen lists like that, the biggest ones and then they keep on going down until they've got the smallest ones and the statistical guy took this, and said, "Most of them fall in this range, another percent fall in that range, another percent fall in that range," and this is what I was to do. Now, the highest one—the highest reservoir, they said always do the highest reservoir, largest reservoir—as I recall, of course, the largest reservoir for one company might be the smallest one for one of the smaller ones or in the mid-range for another one. It was based on that company—regardless of where the largest reservoir fell, I was to do it, whether it fell in the—seems to me there must have been five or six categories.

Q. Did the largest fields—

A. Reservoirs—

Q. I'm sorry. Were the largest reservoirs usually old reservoirs?

A. No, these were uncommitted. Most of them were one-well deals. See, these—if the company had more than one reservoir, it didn't necessarily mean it was all in the same field. There might have been two or three other fields. And they could have had just one well and they had tested gas in two or three different

reservoirs in this same well. But basically, your basic unit on reservoirs is your reservoir, one contained unit in communication with itself and under a common pressure, or table and so forth. But a field can have more than one reservoir by definition, although in Texas, any reservoir is a field—I think New Mexico does the same thing. In Louisiana they don't—they've got field and multiple reservoirs—some of them fifty reservoirs in one field.

Q. And you did the largest, all of them?

A. The largest of each company.

Q. Of each company?

A. Right.

Q. And you did a sampling of the rest?

A. Right.

Q. Do you remember what kind of sampling you did?

A. Oh, I really don't. It's in that testimony and everything else, it's all described.

Q. OK.

A. It was—you take one out of this group, and two others out of this group and if there was only about two or three, just kind of make a judgment and—

Q. Did the figures match when you did your own computations, in each instance?

A. No. Very few—if any.

Q. You didn't match?

A. I doubt if any of them come out the same.

Q. Why would that be?

A. Just by the nature of calculating reserves. There's a lot of judgment that you have to use. You generally will consider that if two guys make a reserve estimate number, say, within five or ten percent of each other, it's pretty close. It has to do with the area that you consider to be a proven area. And the recovery factor—whether one guy says "We're going to get 75% of this," and another, "No, I don't think so, you've got a pretty strong water drive in there. I don't believe you're going to get more than 65% out of it." So, there's a lot of judgment that goes into this thing. It's not strictly adding up dimes, nickels, and quarters, where everybody's going to come out with the same answer.

Q. Well—

A. In any individual reservoir you're going to end up with five, sometimes ten percent, but overall, when you add them all together, if you come out within five to ten percent, it's considered a pretty good check, because you balance—you're high on one, low on the other, high on one, low on the other—it kind of balances out, unless somebody's trying to pull something on you. That's what you always have to look for.

Q. Well, did you feel that the difference was within the allowable range?

A. Yes. I think it—I think it came out within 2%, something like that, overall, when it was all done. Of course, they do something with your sample—I assume they somehow manipulate your numbers when you get done, but I didn't know this until I got back and they had the stuff all calculated out, because, see, I called the numbers in to Mangen, and, as per my instructions, I either tore up my work papers, or let the company tear them up, and if the company wanted them, they could have them. All I know is I wasn't supposed to leave there with anything, and, as a matter of fact, they were authorized to search us, bodily, if they wanted to.

Q. They were authorized to search you bodily?

A. Yes. One company even—nobody searched us, but one company did go through our briefcases before we left.

Q. Before you left they went through your briefcases?

A. Yes, and they insisted when we went home at night that we *not* take our briefcases, that we leave them there.

Q. Leave the briefcases in the office?

A. Yes. The only thing I wouldn't leave is the file folder that had the companies I was supposed to go to and the contact people. The other companies weren't supposed to know who you were seeing either.

Q. Getting back to this alleged conversation with Kofkin, as I recall you testified that, although you couldn't say precisely that you did have a conversation with Kofkin, you seemed to remember that perhaps you did, in the winter of '73, is that right?

A. With somebody on this thing, I don't know—somebody calls you up and says this is so-and-so in a certain department or office and what do you know about this, and (?) the name just doesn't register, so I don't know—the name didn't mean a thing to me.

Q. You seem to remember, perhaps, then, turning it over to Mangen?

A. That's what I would have done, if he asked me about that, unless he asked me about 69-1 and I misinterpreted. I've talked to people about that before, as I said, but I just have a faint recollection and I wouldn't want to hang anybody on a faint recollection on a thing. I just can't—it would just have been a short conversation apparently, and—it wouldn't have impressed me that much, because as I said, this other thing, this 405, I wasn't aware that it had been—that they were doing it again, and I only found out they *were* doing it by accident—just backed in between trips on the gas survey and walked into Mangen's office on a gas survey problem and he had this stuff on his desk, and I said, "What's that?" and he said it was uncommitted reserve stuff, and I said, "Oh, is that that same thing that John Williams did a couple of years—a year or two ago?"

And he said, "Yes," and I said, "OK, I know (?) none of *my* business."

Q. Now, when was that?

A. Oh, it would have been last November or December, sometime.

Q. November or December, '72?

A. Yes.

Q. OK. Now, with respect to this faint memory that you may have had that you may have talked to Kofkin, did you and Mangen later discuss that maybe this was how you got involved?

A. I don't think so.

Q. Neither you nor Mangen talked about the fact that maybe you answered the phone and then gave the call to Mangen?

A. (Can't hear response) I talked to (?)

Q. So that if Mr. Mangen were to testify to that effect, that would be purely from his individual recollection and not as a result of conversations that you two have had since that time, is that correct?

A. Not with me, no.

Q. Not with you?

A. No. I know Wayne Thompson sat right there with me and I mentioned I remembered, come to think of it, this type of thing happened and I just had a real faint recollection whether Wayne talked or not (?)

Q. You mentioned that to Thompson?

A. Yes.

Q. You didn't mention it to Mangen and Mangen didn't mention it to you?

A. No. You know I've gotten a little annoyed with Mangen, about this thing.

Q. Why is that?

A. Well, I've got dragged into the thing here just on something he had done, and I just stay away from him.

Q. Well, let's talk about what he did. Now, we've had testimony from other people in your office that indicated that Mr. Mangen was a little upset about all the trouble he was getting on this R-405 from the Office of Economics. Is that your recollection of the situation?

A. Well, I'd heard some trouble that he had had, that somebody over there in the shop had caught him in some arithmetic errors, or something . . . something to do with breakdown by certain number of companies or something.

Q. Well, the Office of Economics did ask for a breakdown, yes.

A. And when he gave them that number of companies, wasn't it—more than the total he gave them before?

Q. What did you hear about that?

A. Just that. And he had to do it over again.

Q. Well, now, did Mangen indicate that he was displeased with the Office of Economics?

A. Well, I guess you could get that impression, I don't know.

Q. Well, what gave you that impression?

A. Just the look on his face, I guess.

Q. Well, he would have had to say something. He couldn't just have walked into your office with a look on his face.

A. (Laughs.) No, I heard people talking about it.

Q. Who did you hear talking about it?

A. Oh, the guys in the section. I heard him mention it to somebody once, I don't know who it was, that he'd done it over and that—or had to do it over, or something, because the numbers didn't add up or something like that. It's not the first time that sort of thing has happened.

Q. Well, then, you came to the conclusion that he was unhappy?

A. Yeah, I kind of gathered he was I don't know—I couldn't remember any comment or anything to tie it down to, just my own conclusion he wasn't too happy. I guess nobody's happy if somebody finds he did something wrong in his work—just human nature.

Q. Was there also general talk in your office that if those documents were destroyed, then they wouldn't be bothered with them any more?

A. General talk? . . . I wouldn't say general talk, no.

A. I just kind of can't tie that down—it seems to me that there was some—I really can't tie that down.

Q. Do you think there was?

A. No, not really. That's something I couldn't swear to at all on that. I wouldn't have been—I know that there had been previously some problems with OEC—as a matter of fact, that was the reason I was during this period I was talking about earlier, last winter or spring. It had to do with a project I was checking with George Duncan on, the federal off-shore lease sales. There was one in last September, and he had given—he got the assignment, I guess, from the bureau chief. I don't know where he got it. I didn't know I got the assignment from the bureau chief to re-do it, but he had had Joyce Powell add the numbers and pull things out, and apparently I don't know whether he checked it or didn't check it close enough, he just put it out, and then Haskell Wald, or somebody over there, wrote a memo to the bureau chief about it being wrong, and so then he had to do it over again, and he was getting ready to send that out, and I know I was sitting there looking at the thing, and they had just some flat arithmetic, getting percentages, and just glancing at it, you could see well wait a minutes, this line of money here has got to be more than this line, and, you know, how you can do that even without running a calculation through, and so I called his attention to that.

And then about that time, this other sale had been held, and I got back from the gas survey, and Tom Joyce wanted be to do this other thing on that, and he said, "While you're doing that, why don't you go back and do that September sale at the same time?" This had something to do with the participation of the inter-state pipeline companies and their affiliates in off-shore lease sales, that sort of thing. I think we ought to note that that's what we're working on and there's a problem tying down the affiliation, which affiliate had basically the same name as the pipeline company, you knew pretty well that that was the affiliate you could check it out, but there were some other names there that you just had to go through Moody's, and Standard and Poor's, Form 2's, everything you could find to try and trace down these affiliates, and so I was determined that I was not going to end up with one thing and have Economics end up with something else, so I talked to George Duncan one time, and he mentioned he was working on this thing too, and I said, "Let's work this thing out and make sure we got a lease to start (?) with."

And he said, "Well I'm not working on the same end that you're working on, the project." And he said he had to start with the same list of companies, and so forth, so we just would check with each other and ask each other, "Do you know who this company is, and that one," and so forth, and he was able to tie down a couple I couldn't, and I was able to tie down a couple he couldn't, and I think we ended up with a pretty fair list.

So, then I went ahead and put out the report. I got done with that in April or March, February, early part of February. And then I had some other to do with the December sale, as far as the geology (?) pipelines and that sort of thing I worked on, regardless of who the company was.

Q. Well, is the reason you were doing this, was it because the Office of Economics was prohibited from looking at the data?

A. Oh, this thing? (surprise) Oh, this was—all you had to do was go over to BOM, and—I got on their list, they send me their notices of approaching sales, and so forth, and the results of it. They had one not too long ago, basically on off-shore Texas, and I got a copy of the thing here late last week. As a matter of fact, George Duncan came over and borrowed it Monday or Tuesday and I was supposed to have it back the next day and I still haven't got it back. I could go get it, but * * *

Q. Where is Carl Pavetto's desk in relation to yours in your old * * *

A. In the old building? We had these desks with head-high partitions between them—green things, fiber-glass or something—and he was—row of desks, row of desks, an aisle in between, then there were partitions, and right up against that another row of desks, another aisle, another row of desks, and I think his—he was within the third desk over.

Q. Did you and Pavetto and Mangen ever have a discussion with respect to the office of Economics' request for information in R-405?

A. Their request for information (surprise)? I don't think so. I don't know why.

Q. Did you ever have discussion with respect to material that was being furnished to the Office of Economics, with regard to R-405?

A. I don't think so. I don't recall anything about that.

Q. So, you do not recall any such conversation.

A. Lot of times there was a lot of talk going on and, if I'm not involved in it, I (?) slight interest, just listen to it and forget it. If there's nothing I've got to do about it, I just don't pay any attention to it—just a lot of yak going on all the time. Unless I'm going to be assigned to the project or have something to do with the project, why I don't pay that much attention to it.

Q. Did you and Pavetto and Mangen ever have a discussion with respect to destruction of documents in R-405? Even a very casual discussion?

A. Not that I recall.

Q. You don't recall Mangen saying words to the effect that if the documents were destroyed, they wouldn't be troubled any more by the Office of Economics?

A. It sounds like something he could say.

Q. Well, why—what makes you say, "It sounds like something he could say"?

A. Because of this deal on the off-shore sales where they found out errors.

Q. He was mad at the Office of Economics, is that it, or displeased with them?

A. Displeased, I would think.

Q. Now, it sounds like something he *could* say. Now, once again, I want you to refresh your recollection and tell me whether or not to your knowledge you ever heard him saying that?

A. I really can't recall it—I have to think real hard on that one.

Q. Well, I wish you would.

A. I mean, I have no reason not to remember it—I just—not (?) to tell you anything about it—I just—trying to—if I heard something special like that, it would just be that I happened to be in his office or something, talking about—just talking . . . Well, I really can't tie something in.

Q. Not even a conversation in a kidding manner about destroying the documents?

A. Well, it would be in a kidding manner—just normal office bulling around. I wasn't involved in the thing, and I didn't have any responsibilities towards the thing. I didn't really work on it.

Q. Did you ever offer advice to Mangen, even in a kidding manner, that if those documents would be destroyed, he wouldn't be bothered any more?

A. Not that I recall.

Q. Well, is that something you wouldn't recall, if it took place?

A. No, not really. You mean, like I say, "Oh, hell! (?) burn them and forget it," or something like that?

Q. Yes. You don't recall making that recommendation to Mangen even in a kidding manner?

A. No, I wouldn't—I wouldn't—I wouldn't start with. . . . because I really thought they were supposed to be destroyed—and some time—when, I don't know—just on the basis of what I'd dealt with before.

Q. You don't recall Mangen, even in a kidding manner, saying to you, words to the effect that if the documents were destroyed, then you wouldn't be bothered any longer?

A. Sounds familiar, but I couldn't tie in exact words or time or place.

Q. Well, why does it sound familiar?

A. It just sounds like something he would say kidding around, or just—that kind of a sense of humor about a lot of things. . . . Maybe doesn't sound familiar—sounds "likely" I would say.

Q. Now, what made you believe that these documents were supposed to be destroyed?

A. Supposed to be? Well, I was basing mine, as I say, on the 69-1, and it was supposed to be destroyed in 69-1. I assumed it was the same thing—type of thing. I don't know whether when, the first time they did it, John Williams, whether his records were destroyed or not. All I know—understand—is the way he did it, it wouldn't have made any difference, because he didn't have any numbers tied to companies at all.

Q. Now, did Mangen have that understanding as far as you know—that the documents were to be destroyed?

A. I got that impression that he thought they would after the report was out. There again, there's nothing I can give you to tie down.

Q. Well, what's the basis of your impression?

A. I don't know. You're going to have to tie it back to the one I worked on. They're asking for another one of these secret deals and you've got to keep everything real confidential and destroy everything, something like that.

Q. Do you think you did ask him that?

A. Sounded like it.

Q. Do you know when you might have asked him that?

A. I might have said something like that when I first saw him when I had the stuff on his desk. Trying to tie down what it was—when I first saw all of this, I thought, "My God! Is this more of this gas survey stuff?" And that's when he told me—I asked him what it was (?) same thing John Williams had done a year or two ago * * * remark about it (?) whether it was top secret and confidential (?) paper type things. I mean, I'm not too sure.

Q. That would have been November or December, '72, right? So that in November or December, '72, the probability is that you did have a conversation with him, at which time you discussed

A. Possibility.

Q. Possibility? But you seem to remember something along that line. So that in November or December, '72, both of you had the impression that at some future date these documents were going to be destroyed in accordance with the procedure (?) ?

A. I still had—until this thing came up, I didn't know they weren't supposed to be destroyed.

Q. So that, if Zabel would have called to you—I'm sorry, Kofkin would have called you in February, of '73, would you have told him, "Hey, these documents are going to be destroyed, these documents have been destroyed"?

A. I don't think so, because I wouldn't know. I'd assume he wanted to know for sure about something and I would have checked with somebody that did know.

Q. OK.

A. How—if I'd said anything at all like that, that I thought they were going to be or supposed to be?

Q. Yes.

A. If I had, I would have assumed he wanted to know for sure, so I'd had to check in with somebody that did know for sure.

Q. OK. And you don't recall telling?

A. No (laughs)

Q. OK. * * * But you were under the impression that these documents were to be destroyed in accordance with the procedure, and at no time did you suggest to Mangen that, "Well, we've got to destroy these documents sometime anyhow, and if we destroy them now, we'll get the Office of Economics off our back"?

A. Well, the Office of Economics wasn't on my back. I've had pretty good relations with those folks over there.

Q. You never made that kind of a suggestion to Mangen?

A. No, other than this kidding deal, "Why don't we get rid of them?" or something like that. I don't recall even saying that, but it's something I would say.

Q. But you don't recall saying it, even in a kidding, jocular manner?

A. No, I don't recall, but it sure is something I would have said, I mean, I would—I kid around quite a bit. As I say—

Q. Does Mangen kid around quite a bit that way?

A. Yes. He kids around some—quite a bit. As I say, it didn't make any difference to me, because I wasn't on the project and Economics wasn't giving me any hard time.

Q. OK. Now, when did you first learn that the documents had been sent for destruction?

A. That I read in the newspapers.

Q. You didn't know anything prior to reading in the newspaper?

A. Now, wait a minute—ah, that week or sometime prior to that time I went to Houston, I saw these people in Mangen's office with all these pieces of paper—looked like they were working on a jig saw puzzle (laughs) and scotch tape (laughs)—and running around borrowing scotch tape from everybody, and I said,

"What in the world's all that?" Well, that was that uncommitted reserve thing Senator Hart wanted to see and, and I said, "Well, why are they doing it in pieces then?" Well, everybody said, "They were torn up, don't worry about it," and they were putting them back together. (laughs) So, I guess it was even in the paper about the scotch tape, and when I got down to Houston, it came out Sunday, I guess, and I left early Monday morning and went into this pipeline company office on Tuesday morning, and they were all kidding me about Did I need any scotch tape to take back to Washington, so (laughs) I actually thought the thing—that he'd got rid of them when we moved out of the other building, because we threw a *lot* of stuff away—we ended up with less space to our files and so forth than we had over there, and some of it was stuck down in the hallway.

Q. Prior to the scotch tape incident, did you have any knowledge or indication that the material had been sent for destruction?

A. No.

Q. Did you have any knowledge that Mangen went to Pavetto and went to Joyce Powell and collected all the information that *they* had relevant to R-405?

A. No, I don't know whether he did or not. I would assume he *would*.

Q. You didn't have any knowledge of this—I mean, Paveto or Powell never mentioned that fact to you?

A. I don't think so—as far as was concerned, it would be just some assignment that they'd been handed to do and when they get it done, give you back the work papers and everything else (?) work for me generally adding up columns of figures, that sort of thing, and then checking across, to make sure they balance, check her tapes, and then when she gets it done, she brings it back, including my work sheet that I gave her to start with—she just brings it right back to you. Now, whether Mangen had this arrangement with her, or not . . .

Q. So, you don't, of your own knowledge, have any information with respect to those documents being sent for destruction prior to the scotch tape situation you told us about?

A. No. No knowledge of that. As I say, I was—I had assumed they probably had already been destroyed, because I thought that what was supposed to be done, what they were supposed to do with that, and with all this mess they had moving, and trying to get rid of files and everything else. . . .

Q. It's one o'clock and I still have several questions to ask you Mr. Zabel, and I'm wondering if it wouldn't be more convenient for everybody else and your memory would be more refreshed if we take a break and get a sandwich and a cup of coffee and then continue.

A. My schedule's yours.

Q. All right. Why don't we break, then, for forty-five minutes and resume at a quarter to two.

As I recall, you indicated that you received the impression that the documents in R-405 were to be destroyed, based upon your previous experience in AR69-1, is that correct?

Now, besides AR69-1, did you ever work on any project where the documents or work papers were also destroyed?

A. No, not destroyed. Sometimes they had to be returned to the company that sent them in. It happened on some pipeline applications in a particularly sensitive area where the pipeline itself only has the number—it doesn't have the data behind it in order to calculate the reserves, and so the producer will come in to the office where there's material and allow us to calculate the reserve, and then take his material back. But we do have, of course, . . . basic data . . .

Q. But, in no other instances that you worked on, were the documents actually destroyed, is that correct?

A. That's the only one I can think of. I assume you mean destroyed immediately with some purpose, not because they were old files and were just thrown away.

Q. Right—not with respect to the normal retention of documents.

A. We actually have gone to a lot of cases where the company couldn't care less whether we kept the records or not. We've gone—applications, pipeline applications, and so on, where we send all the materials back, because we've got no place to keep it, there'd just be mountains of it up there.

Q. Now, do you remember precisely which ones you worked on where the material was sent back?

A. No. That's not just me—I'm talking about the other people. Oh, golly—I worked on them * * * ten men with one several years ago—more than natural (?)—this, of course, was pipeline material. (?) sent it back to him any time he'd want it. Virtually involved—hum—(?) pipeline—I'm not sure of that—company man came in with the material and a group of us were looking at it and then a company man after we were through took it back with him, but then again, we still had the work papers—the numbers, with the results.

Q. Did you work on the natural gas survey?

A. I sure did.

Q. What did you do there?

A. I took a crew out and estimated reserves on fields, (?) a sample based on AGA reserves.

Q. How did you make a determination there, as to what fields or what reservoirs you would pick?

A. This they worked on a field basis. They had some discussion about this that it was not the basic unit, but we lost out, so we did it on a field basis. We did all of them that were 400 billion cubic feet remaining reserves as of the end of 1970. By remaining (?) they were 400 billion or better, as reported by AGA. We did all of those—there were 134. And there were some again, a sampling technique, of all the other fields, the smaller fields, and they had modules set up of 50, and if we had time, we'd do the 50. If we had more time, we'd do another 50. We had ah—I believe—I don't have it—but I think by the first of this year we were supposed to have most of that work done and then we got another project that's part of that, where we were checking records—I wasn't, but part of the project was that the records would be checked with the University of Oklahoma, who maintained the—a, a list of all the fields in the United States. That was checked against the AGA list, and if there were any fields that were missed, in other words, if there were fields listed as being in existence at the end of 1970 and the AGA didn't have them, then we went out and did those. Now that was—50 or 60 fields. This is all written up in the *National Answer*, a publication they put out.

Q. And what was the—where was the cutoff that determined the large fields?

A. 400 billion.

Q. 400 billion?

A. As I understand it.

Q. Now were those mostly over-productive fields enough?

A. I didn't do all of them, of course.

Q. In your experience?

A. Most of them were fairly mature fields—they would have to be to have that much development, to have that many reserves.

Q. Why is that?

A. It takes time to drill and develop these fields. . . . There's kind of a little (?) . . . a discovery in the whole thing right now, in 1973. You don't really estimate that that field will be completely developed, and you won't really know what you had when you first discovered that field, for about six years. You drill a well, and you know you've got some gas. But you're only proving so much gas from this one well and so this is a discovery. But you don't know what the magnitude of the discovery is, for on the average, about six years. At the end of the six years, you've got more than an idea what the magnitude of the discovery was back here in 1973.

Q. So, when we're talking about smaller fields as opposed to larger fields, all we're talking about, I guess, is what actually has been discovered, is that right?

A. Well, there are fields that are completely developed that are sometimes very small. There are sometimes only one well in the field and they drill around it and they find nothing else—they're down in the water—and this one well produces til it's depleted. It can be a time from two or three months to four, five, or six years or more, even. But, the size of the field really doesn't tell—you're not going to be able to tell how new the reserve is because of the size of the field.

Q. Yes. And . . . you did all fields over 400 thousand?

A. 400 billion.

Q. I'm sorry, 400 billion cubic feet.

A. Yes.

Q. And you did a sampling of those under 400 billion . . . What kind of sampling was that, do you recall?

A. I don't recall the technique. I was given my assignment to go to such-and-such a company and do these reserves, and some of those range from a couple billion up to two or three hundred billion—(?) sample. Now, most of the ones that we found on the—not included in the AGA group—most of those were simply one-well deals, or had been picked up shortly after the first of the year, but found out later, but nevertheless we still went ahead and did it. It didn't amount to a whole lot—it was just one field or sometimes the reserve was gone by the time we got there—already depleted.

Q. Now, you mentioned you were under somewhat of a time constraint, is that correct?

A. Well, they didn't want to rush us, understand, but there was an understanding that they did want to get something out—some kind of study out this spring. I don't really know. Nobody really rushed us on anything. I had the idea of a time constraint, that if we had more time, we maybe would have done more than these 50 modules, but that the—what they call it, the statistical validation committee, or something—and apparently they were satisfied that it was a valid sample.

Q. Well, you think if you'd had more time you might have done more than 50, is that right?

A. Well, if we'd had more time we'd have maybe done another 50, but I don't know as it would maybe have changed the sample any—I mean, changed the results. The sample, would of course, have been another 50, but I doubt if the results would have been any different.

Q. Well, now was the figure "50" picked originally when you started this, or was 50 just the result of the time you were able to spend?

A. Oh, you mean when we first started, did we say we were going to do 50?

Q. Yes.

A. No. That was the—they were playing around with the statistics part for almost all the time, and they were trying to come up with what would be a valid sample and this was the way they came up with it.

Q. Well, when you were in the company you did all the large fields. And then, did you do the small fields in terms of just the amount of time you had left in that company?

A. No, no. This was assigned on a field basis, not a company basis. We did do a sample of the larger fields—that wasn't a sample—that was all of them. And then we started on smaller fields and then we'd go back to whatever company had the records because the operator helped maintain records on that field that we could look at. Sometimes it would be some of the same companies we had visited on the larger fields, but it wasn't done on a company basis the way the uncommitted thing was.

Q. Now, I believe you were asked to bring with you all documents, either logs, diaries, or any other documents or writings whatsoever, either referring or relating to this subject of the investigation. Have you brought those with you?

A. (Laughs.) This is a note from you yesterday, and this is apparently a note when you called when I took a long weekend to go to the beach last week. And this is just some notes I made down to find out what in the heck this 405 was. And this is just a schedule I made again to find out where I was and what I was doing in the last six months or so. And I don't know if it will do any good or not, but this is a copy of a transmittal memo, I suppose—has to do with turning over anything I have to the bureau chief, who turned it over to somebody to—anyway, it was put in the safe with all the other material.

Q. You were describing the documents?

A. Well, actually some of these—this one, is where I put down, wrote down for my travel (?) where I was. Just as curious myself, trying to remember—and this is strictly here, that's just a transmittal memo where I requested to . . . turn in . . . anything I had to do with this . . . (?)

Q. Well, would you want to proffer those to us and then we will send them to be photostated?

A. This here you've already photostated—I gave you a copy of this, just put in the safe (?) . . . investigation and then this was my notes when I got back from (?) . . . top part was on my desk, and then I made a note on the bottom . . . Mrs. Turner

Q. Well, if you'll give those to us I'll have them photostated and return them to you.

A. All right. . . . That's a note I made yesterday.

Q. Well, you might as well give them all to us and then we'll

A. OK. This is just my copy where I got a receipt from a fellow I gave it to—that's the same thing as you've got, that other

Q. OK.

A. That's just another carbon.

Q. Carbon dated June 25, 1973. There are two copies of it. I'm returning one to you at this time, with the receipt.

A. I do want to keep that.

Q. You have some handwritten?

A. Oh, that's just a draft of this (?) . . . ignore any bad English. Another note when I was at the beach and you had called. . . . I really just called back my work dates when I was out of town (mumbles)

Q. Now, it's a handwritten sheet that you've handed me that I'll mark Zabel Exhibit One. Will you describe what that is.

A. Well, this is some notes I made on the press release concerning R-405. Do you want me to read it?

Q. Well, just

A. That's all it is—it says when it was reissued, and then the secretary wrote letters and said the company hadn't responded and said what was issued February 9, 1973, and below that was a note that I scratched out, where I started to make a list when I was out of town, which I just put on the other sheet.

Q. What's the one that you have scratched out say?

A. That I left 3/27/73 to go to Austin and Santa Fe for gas survey. Returned 3/31/73. That's all it says—I thought well, I didn't need to go into that detail, but I didn't know whether I would.

Q. Now, why did you make this handwritten note?

A. Just trying to find out what was going on, see where I was in relation to all this.

Q. When did you make this note?

A. After I'd given my deposition to the ED.

Q. Did anyone instruct you to attempt to bring yourself up to date with respect to—

A. No, I was just curious about what was going on, whenever this all happened.

Q. So, you did this just on your own.

A. Yes, I sat there at my desk.

Q. You did it during office hours?

A. Yes.

Q. All right. And then, there's another handwritten note labeled "Out-of-Town Work Days," labeled Zabel Exhibit Two. When did you make that note?

A. Same time as I did the other.

Q. Simultaneously with the time that you?

A. Yes,—well, I started to work backwards, you see, from that March 27th trip to Austin and Santa Fe in the note, and I thought, "Aw, heck! I'll just get up a roster for the last—the last half year and see just where I was."

Q. And you did that for the same purpose, to try and—

A. The same purpose—in reference to this 405. And I had an idea I probably wasn't around when the thing came up, or I'd heard more about it, and I compared them to when the thing was reissued and so forth, and the response was due, compared them to my—basically I was working on the gas survey, so I made a note of that was what was going on at the time—whether I was out of town or not really didn't make much difference.

Q. Well, were you trying to find out if you were in town on the date that Kofkin alleged that he talked to you.

A. Yes.

Q. Were you doing this at anyone's instructions or request?

A. No, just mine. He seemed so sure, I seemed so unsure, I thought well I—

Q. Did you find out that you were out of town?

A. No, I was here.

Q. You were in town on that day?

A. Sure was.

Q. Where did you get these records from? Do you keep a diary?

A. Those times?

Q. These times.

A. Oh, my expense accounts.

Q. Those came from your expense accounts?

A. Voucher, I believe—government form.

Q. Do you keep a work diary, or anything like that?

A. No, I don't.

Q. And then we'll identify as Zabel Exhibit Three the draft of the memorandum to Joyce re Senate Judiciary Committee . . . and this was in compliance with Chairman's June 22 letter and that we'll identify as Zabel Exhibit Four.

Then, there are three other pieces of paper here referring to calls that you received from staff members of the Antitrust Committee and we'll make these Zable Exhibit Five, Zabel Exhibit Six, and Zabel Exhibit Seven.

And, finally, we have a memorandum to Victor H. Zabel from the Executive Director, dated June 20, and we'll make that Zabel Exhibit Eight.

A. I believe I referred to that when—

Q. OK. And then, this is—have we numbered this already? This is a memorandum, a final memorandum to Joyce from Zabel. We'll make that Zable Exhibit Nine. And we will have these photostated and return the originals to you.

Now, in trying to reconstruct where you fit into this, did you by chance check your leave slips to see if you were on leave the day that the alleged telephone call from Kofkin to you was made?

A. No—I don't think I was—I didn't check my leave sheet. There's a time sheet that they use for budgetary purposes, and on that you generally mark your leave, but I didn't have any leave marked down for that date. I knew what I was doing on that date, though.

Q. All right. So you determined that you were in the office on that date?

A. Right. Sure was. (Door opens, footsteps.)

Q. I want to hand you a document and ask you if you have ever seen that type of document before. It's entitled *National Supply Team*. There's docket, applicant, staff, proposal, status. There's various Federal Power Commission matters recorded and then the status of those matters.

A. I've never seen this, but it looks something that—I guess, Mangen would have to do with his administrative business.

Q. You don't normally come in contact with this type of a document in your business, is that correct?

A. No, No, this is showing the status of the project . . .

Q. That's the first time you've ever seen that document?

A. Yes (mumbles). It looks like something he just keeps up for his own information—it's all handwritten. I don't know the particular government form—looks like somebody took—thirteen column rule of paper (?) everybody's doing * * *.

Q. OK. Now, what were you doing on February 27th?

A. I was working on this off-shore lease sale. I believe at that time I'd already gotten a report out on the participation of interstate pipeline companies or their affiliates on the lease sales, and I was working then on the December sale, to determine the blocs that were leased—oh, a number of items about them—whether the blocs that were leased were predominantly oil, predominantly gas, or half and half—ah, wanted to know how far out it was from shore, how deep the water was, what was the closest existing pipeline to each of those blocs, what was the closest proposed pipeline to each one of those blocs. It's a field for the future, whether it would be gas or oil, and what we could expect, how far out it was, how it was going to be difficult to drill it, and if it was drilled, who'd do the pipeline, it would be the closest one to make an attempt to get a contract for it.

Q. And this is what you worked on for most of that day, as far as you can—

A. I was working on that for several weeks.

Q. And you're pretty sure you working on that all day, the 27th of February?

A. Pretty sure I was. . . . Sometimes somebody would come and drop something on your desk.

Q. Now, did the executive director in his interview with you, ask you what you were doing on that day?

A. I don't think so.

Q. Did he ask you whether you had received a phone call on that day from Mr. Kofkin?

A. Yes, sir.

Q. What did you tell him?

A. I told him I didn't remember if I did.

Q. Did you tell him that you had not received a phone call?

A. No, I didn't say I had not. I could well have. As I say, it's just that very little fuzzy thing that I remember that somebody, as I told you early this morning on that, and I couldn't say whether he called me or not.

Q. Well, when you say that "little fuzzy thing," as I recall, you said that maybe you did receive a call, it sort of jogged your memory and maybe you could have called Mangen and said that Mangen could take care of the call. Is that right?

A. That's the one I'm talking about. Whether it was Kofkin or somebody else, that doesn't ring any bell at all.

Q. Do you have any recollection at all, even a fuzzy recollection, of what Mangen may have said to the other party?

A. No. As I say, he was in the office, and I just shouted in to him. It was oh, perhaps, from here to, oh about twice as far away as your office. As I say, we were out in this bull pen deal, and he was in a closed office with a door and he got the, Sherwood got the phone number, but I'd done and—

Q. You didn't listen to what he said?

A. No, I never did that.

Q. You couldn't have heard him otherwise?

A. No, not when he was in his office. He would have had to come out of his office, or talk on the phone in the same area. People were in the next cubicle—as we call them "cubby-holes," or whatever—he could generally hear the phone conversation, but the next one over * * * so that you couldn't hear him, of course, Mangen was inside his office, where he could hear if somebody yelled at him, hollered, or shouted. . . . but I would have had to go and stand by his door to listen * * * wouldn't do that. This mine or are yours in there too?

Q. No, those are your copies there. Now, during the scotch tape incident, you previously indicated that you were advised that Senator Hart was interested in these records being put back together, is that right?

A. Yes (uh-hum).

Q. Did you have any knowledge or awareness that Senator Hart was interested in these papers prior to this scotch tape incident?

A. No.

Q. Mangen never advised you of that, or no one else indicated it?

A. (Inaudible.)

Q. Did you have any knowledge with respect to the fact that the Office of Economics was interested in that information?

A. Yes. I think so . . . during all this . . . because I remember that Mangen talking about the Economics—something to do with this asking for the largest four and the largest eight, or something like that and there had been something wrong with the—totaling up, it came out to more than all the companies put together, or some error or something that Economics had found.

Q. Well, what do you remember Mangen saying about that?

A. Just that it happened. He didn't say nothing about it—but I know Economics was interested in that, or he wouldn't have done all that, and he didn't appear to be too happy about it. . . . I just don't—

Q. Well, do you remember even approximately what month that was?

A. No. It must have been after the report came out—no, it didn't necessarily have to be after the report came out—if he was working with (?) he would have been working with the basic data. I really can't recall—it's just one of these things that goes around the office, and you're on the periphery of it, and you hear something and you're not concerned with it, and you don't pay too much attention to it, and—that was on a lot of projects, I guess.

Q. Well, was it general knowledge in the office that Mangen, or people under Mangen's supervision, had done some work on these documents for the Office of Economics, and that work had been found to have mistakes in it?

A. I think so. I knew it. I heard it.

Q. Well, was there general talk about it?

A. Well, somebody mentioned it a time or two, I suppose. Economics had found some more errors.

Q. Well, what was the context of how it was mentioned?

A. Over a cup of coffee type thing.

Q. Well, was there any indication of "Hey, we goofed again," or anything like that?

A. You know that, kind of, in a way, because of this other thing that I was telling you about in the Fall on that off-shore lease thing and just . . .

Q. Did Mangen ever talk to you about it?

A. About which?

Q. About mistakes he made in the R-405?

A. No. I don't think he liked—I just vaguely recall hearing him mention about the four and the eight bit and that I overheard him talking to Albares about it one time, the four and the eight bit, and how it had happened, or something or other, and what was wrong, somebody hadn't had to have something, or he hadn't given somebody all the paper or—that was on something in the (?) room and they stopped talking about it and went on with their regular business.

Q. Well, now, was it that someone had added something wrong or that Mangen hadn't given someone all the papers?

A. I kind of gathered he had left some of the papers on his desk or something and had them in the stacks or something and didn't give them all the stacks, or some kind of goof, I would say. He just didn't check thoroughly enough to see he had all the dope—give them to the cop (?) operator.

Q. And you overheard this conversation with Albares?

A. He, I believe, mentioned to Albares, they were talking about it, when they came in the office to start working on something else, and then they went on with whatever else came up.

Q. Now, do you recall what month that may have been?

A. A couple, three months ago, something like that—might have been even longer than that.

Q. Two or three months ago—that would place it—

A. April, May, June, or somewhere along in there * * * it was after, it was after we moved—we moved in May.

Q. Was in May.

A. Had to be after we moved, because I recall it was in the new offices in there.

Q. Was anything said at that time with respect to destruction of documents?

A. No.

Q. Do you have an opinion as to why Mangen tried to have the documents destroyed?

A. Well. * * * I think he actually thought he was supposed to at some time or other. As to why he chose it just when he did, I gather it must have been before we left the GAO building * * * I really think he thought he was supposed to do it eventually, just based on what he had done before, and I really don't know whether he had any other thoughts in mind or not.

Q. Did Mangen ever discuss why he had tried to have the documents destroyed with you?

A. No, no. That all came out that he had tried to destroy them and so forth after this was in the papers, and so forth. He had been pretty close-mouthed about it.

Q. That report came out in the papers (?)

A. I didn't know he had tried to, until I saw them taping the things together there, and I wasn't too sure of the background why they were taping things together.

Q. (Long pause.) Thank you very much. Is there anything that you would like to add to your statement at this time?

A. Well, I just wish I could remember things a lot better. You never assume just in day-to-day talking or going on around the office that you're going to have to try to remember who did what or what was said. It's pretty difficult and I wish I could be more helpful. If you think of anything, why you know where I am.

Q. Why, you've been a great help and we do appreciate it.

A. As far as the 69-1, I do have copies, of my activities in there in the testimony. I threw a lot of them away when I moved, but I kept four or five of each one, if you want something like that, I don't know what good it would be, except you could ask some questions on it.

Q. OK. If it's determined that we do need that information, why—

A. Well, I have five different items in there and I went through and picked them all out this morning just in case you wanted to ask, I mean, you wanted them or something, since I had referred to them when I talked to the ED. It's all in the public record.

Q. What items did you pick out?

A. Well, I had—six—I don't know if you're familiar with the way we do hearings over there or not. We have a prepared direct testimony, which is distributed prior—put on the record, and everybody gets a copy, and you have your exhibit if you have an exhibit, that this testimony is describing and of course, you're cross-examined later on it, later when you get on the stand, you're sworn, and you adopt your testimony and your exhibits and then, of course, you know more about this legal business than I do, but I've sat there long enough to know it—and then it's not entered in the record unless the examiner or administrative law judge, I guess they call them now, decides it's going to go into the record. People can object to it prior to that time, apparently. Anyway, that's what I had which was this material—South Louisiana at the end of '68, and that was my Exhibit 31 in the testimony going along with that (mumbles) date sometime in '70, and then I went out and updated it at the time and had enough data to update it and so I updated it for another year, so then I redid it, the exhibit, which was basically the same exhibit, except that it was as of the end of 1969, and I had direct testimony to explain that, then I had just direct testimony describing the—five little printed things.

Q. OK. Thank you very much. The time is now 2:40 and as I recall, starting back at this interview from 10 until 2. Because this is a preliminary subcommittee investigation, and because the identity of all the interviewees is not yet fully determined, and because the Subcommittee has made no determination respecting the release or manner of use of the substance of these interviews, you're requested not to discuss the substance of this interview with anyone other than your personal attorney. And I thank you very much.

A. All right.

MAY 6, 1974.

Memorandum to: The Commission (For Information).

From: Bureau of Natural Gas.

Subject: Updated Staff Report on Uncommitted Gas Reserves (Docket No. R-405-A).

In our March 19, 1974, report of uncommitted gas reserves available for sale as of December 31, 1972, and June 30, 1973, it was noted that we had received reports from 81 of the 85 major gas producers that were requested to respond pursuant to the Commission's August 1 and October 15, 1973, orders.

Pursuant to the Commission's Opinion No. 687 issued February 4, 1974, in Docket No. R-405-A and Opinion No. 687-A issued April 3, 1974, we have now received responses from 84 of the 85 companies. Only King Resources Company did not respond and it was relieved of that obligation in Opinion No. 687 for the reasons set forth in that opinion. This report, therefore, represents a final update of the March 19 report.

Attached hereto are the following tables which update the tables in our March 19 report to include the uncommitted reserves of TransOcean Oil, Inc., Pennzoil Company and Pennzoil Producing Company:

Table I—Total Proved Uncommitted Reserves Reported By Company.

Table II—Proved Natural Gas Reserves Available for Sale by Individual Companies and by State or Area.

Table III—Concentration of Proved Uncommitted Gas Reserve Holdings In the United States and in Major Gas Supply Areas.

Table IV—A.G.A. Proved Reserves and Large Producer Proved Reserves Available for Sale in Major Gas Supply Areas.

A report on uncommitted gas reserves for previous reporting dates was presented in an FPC news release (No. 19368) dated June 25, 1973. Comparisons between that report and the latest study should be viewed with the understanding that (1) the reports were based on data filed by slightly different lists of large gas producers and (2) neither study purports to contain 100 percent of the uncommitted gas reserves in the United States.¹

The following table summarizes the uncommitted gas reserves data collected by the FPC for the reporting dates between 12/31/69 and 6/30/73:

¹ FTC Proposed Rulemaking (Docket No. RM74-16) would collect gas reserves data, including uncommitted gas reserve information, from all natural gas companies.

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE REPORTED BY LARGE NATURAL GAS PRODUCERS

[Trillions of cubic feet]¹

	Total	Nonassociated	Associated-dissolved
Lower 48 States:			
Dec. 31, 1969	4.6	4.0	0.6
Oct. 1, 1970	4.4	3.8	.6
Dec. 31, 1971	3.8	3.1	.7
June 30, 1972	3.4	2.8	.6
Dec. 31, 1972	2.7	2.0	.7
June 30, 1973	3.0	2.3	.7
Total United States: ²			
Dec. 31, 1969	6.0	5.2	.7
Oct. 1, 1970	6.1	5.3	.7
Dec. 31, 1971	31.6	4.9	26.8
June 30, 1972	31.2	4.5	26.7
Dec. 31, 1972	30.5	3.7	26.8
June 30, 1973	30.8	4.0	26.8

¹ Numbers rounded off. Total volumes for Dec. 31, 1972 and June 30, 1973 are reported with modifying footnotes submitted by the individual companies as shown on table I (attached).

² Includes North Slope of Alaska beginning with Dec. 31, 1971. Zero reserves reported for Hawaii.

A copy of this report has been made available to the public through the Office of Public Information.

GORDON K. ZARESKI,
Chief, Planning and Development Division.

Approved:

FRANK C. ALLEN,
Chief, Bureau of Natural Gas.

TABLE 1.—FEDERAL POWER COMMISSION SUMMARY OF UNCOMMITTED GAS RESERVES REPORTED TO THE COMMISSION BY LARGE NATURAL GAS PRODUCERS

[Million cubic feet]

	Reserves as of—	
	Dec. 31, 1972	June 30, 1973
Amerada Hess Corp.	36,440	36,866
American Petrofina Co. of Texas	1,461	1,735
Amoco Production Co. ¹	726,746	732,587
Anadarko Production Co.	4,351	1,009
Ashland Oil, Inc.	1,116	7,110
Atlantic Richfield Co. ²	26,100,250	26,103,675
Austral Oil Co., Inc.	0	0
Aztec Oil & Gas Co.	10,056	14,556
Bass Enterprises Production Co.	1,467	1,258
Bass, Perry R, Inc.	6,575	6,096
Belco Petroleum Corp.	13,280	7,080
Beta Development Co.	0	0
Cabot Corp.	965	6,186
Champlin Petroleum Co.	5,100	5,100
Chevron Oil Co.—Western Division	1,932	0
Chevron Oil Co., California Co. Division	5,504	7,897
Cities Service Oil Co.	73,344	54,202
Clinton Oil Co.	3,000	3,000
Coastal States Gas Producing Co.	0	0
Colorado Oil & Gas Corp.	0	0
Coltexas Corp.	0	0
Columbia Gas Development Corp.	75,023	17,136
Continental Oil Co.	25,802	7,886
Cox, Edwin L.	11,332	11,105
Diamond Shamrock Oil & Gas Co (Dia. Sham. Corp.)	11,357	11,037
Dorchester Gas Producing Co.	0	0
Exchange Oil & Gas Corp.	5,939	0
Exxon Corp. ³	173,000	168,800
Forest Oil Corp.	52,660	52,660
General American Oil Co. of Texas	1,500	1,984
Getty Oil Co.	19,726	36,317
Gulf Oil Corp., Warren Petroleum Co. (Comb. Report)	23,846	71,041
Hassif Hunt Trust	4,720	5,510
Heimerich & Payne, Inc.	0	0
Huper, J.M., Corp.	1,729	7,002
Hunt Oil Co.	24,390	30,520
Imperial-American Resources Fund, Inc.—Debtor	2,884	2,884
Jupiter Corp.	3,936	3,787
Kerr-McGee Corp.	11,376	15,191

See footnotes at end of table, p. 1665.

TABLE 1.—FEDERAL POWER COMMISSION SUMMARY OF UNCOMMITTED GAS RESERVES REPORTED TO THE COMMISSION BY LARGE NATURAL GAS PRODUCERS—Continued

[Million cubic feet]

	Reserves as of—	
	Dec. 31, 1972	June 30, 1973
Lone Star Producing Co.	794	40,354
Louisiana Land & Exploration Co., the	5,815	5,815
LVO Corp.	0	0
Mapco, Inc.	0	375
Marathon Oil Co. ⁵	653,855	630,865
McCulloch Gas Processing Corp.	5,000	5,000
Mesa Petroleum Co. (formerly Pubco)	5,508	7,765
Mboil Dil Corp.	81,901	311,808
Monsanto Co.	32,925	1,825
Murphy Oil Corp.	0	0
Natural G's & Oil Co., a division of River Corp.	0	0
Northeast Blamco Development Corp.	0	0
Sohio Petroleum Co. ⁷	42,676	46,341
Northern Natural Gas Producing Co.	0	0
Ocean Drilling & Exploration Co.	0	0
Pennzoil Co.	26,980	3,270
Pennzoil Producing Co.	5,523	9,413
Petroleum, Inc.	4,750	4,750
Phillips Petroleum Co.	390,350	351,900
Pioneer Production Corp.	0	0
Placid Oil Co. ⁶	29,390	33,780
Rodman Corp., the	0	4,000
Shell Oil Co.	201,900	207,000
Signal Oil & Gas Co.	19,189	24,188
Signal Petroleum	0	0
Skelly Oil Co.	17,067	19,860
Sohio Petroleum Co. ⁷	42,676	46,341
South Coast Corp., the	1,009	0
Southern Natural Gas Co.—Phillips Petroleum Co.—Joint venture	0	0
Southern Union Gathering Co.	0	0
Southern Union Production Co.	0	0
Stephens Production Co.	2,885	1,088
Suburban Propane Gas Corp.	0	5,600
Sun Oil Co.	42,181	15,276
Superior Oil Co., the ⁸	121,405	120,356
Tenneco Oil Co.	35,926	110,489
Tennessee Gas Supply Co.	0	0
Terra Resources, Inc.	708	4,366
Texaco, Inc. ⁹	301,433	139,349
Texas Gas Exploration Corp.	43,667	10,359
Texas Oil & Gas Corp.	19,291	34,874
Texas Pacific Oil Co., Inc.	6,140	6,460
Transocean Oil, Inc.	0	46,248
Union Oil Co. of California	954,965	1,145,579
Union Texas Petroleum, division of Allied Chemical Corp.	0	18,275
Total, 84 companies.	30,494,940	30,797,845

¹ Over 85 percent of the total for each reporting date represents proved reserves that will be available at the expiration of term intrastate contracts.

² Volumes include Alaskan North Slope reserves of all producers. Attention should be directed to the arrangement between BP Oil Corp., a subsidiary of Standard Oil Co., of Ohio (Standard), and Columbia Gas Transmission Corp., concerning the disposition of Standard's North Slope reserves. In addition, no pipeline facilities are in existence at this time, and none are forecast to be completed prior to 1980.

³ Volumes do not include the Federal domain of offshore California. On the basis of available exploratory information it is estimated that respondent's reserves in the area amount to 170–220,000,000,000 ft³ of associated and dissolved gas. Plans are now being made to obtain necessary Government approvals to install facilities for development, production and delivery of oil and gas. It is anticipated that several years will be required to complete these activities and the accompanying arrangements for delivery of the gas to an onshore market. In addition to the reserves reported above, respondent also has approximately 75,000,000,000 ft³ of uncontracted gas reserves in 168 fields scattered throughout the United States which are considered nonmarketable because they are either (1) being utilized for pressure maintenance or gas lift, (2) needed for lease fuel or (3) generally too small to economically justify either respondent's or a purchaser's connection.

⁴ Data for June 30, 1973, includes 1,400,000,000 ft³ in Texas RR, District 10 and 3,814,000,000 ft³ in Utah which were committed subsequent to June 30, 1973.

⁵ Marathon's current drilling efforts to develop offshore Louisiana gas reserves are on leases optioned under advance payments agreements.

⁶ Volumes include 5,000,000,000 ft³ shown for South Louisiana which are not, as a practical matter, available for sale because of the volume and the cost involved in sales facilities.

⁷ Gas reserves attributable to BP Oil Corp., ownership in North Slope properties will be included in report by Atlantic Richfield Co., stating total North Slope reserves for all producers. Volumes include 42,048,000,000 ft³ in South Louisiana which are in reservoirs which are being cycled for pressure maintenance and because of this, are not available for sale at this time.

⁸ Except for 5,000,000 ft³, the balance of this volume, while not now committed to a contract, will be committed to a particular interstate pipeline company unless terms of sale cannot be agreed.

⁹ Does not include approximately 73,211,000,000 ft³ of nonassociated natural gas and 64,236,000,000 ft³ of associated and dissolved natural gas which was estimated as of Dec. 31, 1972, to be remaining after expiration of existing volumetric contract commitments. Whereas these volumes may be technically available for sale, as a practical matter no deliveries could be made from these excess volumes during the term of existing volumetric contracts, because total reserves have only enough deliverability to meet present deliverability obligations.

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE (MM ft³ AT 14.73 PSIA AND 60° F.)

State or area	Volumes as of Dec. 31, 1972			Volumes as of June 30, 1973		
	Nonassociate	Associate-dissociate	Total	Nonassociate	Associate-dissociate	Total
Amerada Hess Corp.:						
South Alaska-----	0	30,000	30,000	0	30,000	30,000
Louisiana South-----	0	0	0	426	0	426
Louisiana FFD ¹ -----	1,660	4,780	6,440	1,660	4,780	6,440
Total-----	1,660	34,780	36,440	2,086	34,780	36,886
American Petrofina Co. of Texas: Arkansas South (total)-----	0	1,461	1,461	0	1,735	1,735
Amoco production Co.:						
South Alaska-----	15,600	0	15,600	15,600	0	15,600
Colorado-----	265	1,415	1,680	2,660	0	2,660
Louisiana North-----	0	8,631	8,631	0	8,631	8,631
Louisiana South-----	31,461	0	31,461	31,461	0	31,461
Mississippi-----	0	195	195	0	195	195
New Mexico south-east-----	33,887	43,165	77,051	33,444	43,164	76,608
Oklahoma Pan-handle-----	0	0	0	2,025	0	2,025
Oklahoma ANA-----	1,485	0	1,485	9,325	0	9,325
Oklahoma east-----	0	0	0	1,125	0	1,125
Texas 8-7-----	56,488	246,491	303,079	56,488	246,591	303,079
Texas 5-6-----	4,598	83,821	88,419	3,165	83,821	86,986
Texas 1-4-----	169,470	16,369	185,839	169,470	15,916	185,386
Wyoming-----	11,800	0	11,800	8,000	0	8,000
Miscellaneous-----	0	1,506	1,506	0	1,506	1,506
Total-----	325,054	401,692	726,746	332,763	399,824	732,587
Anadarko Production Co.:						
Colorado-----	334	0	334	334	0	334
Kansas-----	2,640	0	2,640	0	0	0
Montana-----	640	0	640	0	0	0
Oklahoma ANA-----	310	0	310	0	0	0
Wyoming-----	427	0	427	675	0	675
Total-----	4,351	0	4,351	1,000	0	1,009
Ashland Oil, Inc.:						
Kansas-----	1,056	0	1,056	1,056	0	1,056
Oklahoma ANA-----	0	0	0	5,994	0	5,994
Wyoming-----	0	60	60	0	60	60
Total-----	1,056	60	1,116	7,050	60	7,110
Atlantic Richfield Co.:						
North Slope-----	0	26,000,000	26,000,000	0	26,000,000	26,000,000
South Alaska-----	64,400	0	64,400	64,400	0	64,400
Colorado-----	11,500	0	11,500	11,500	0	11,500
Louisiana south-----	0	700	700	0	700	700
Louisiana Fed ¹ -----	18,350	900	19,250	24,075	900	24,975
New Mexico south-east-----	4,400	0	4,400	0	0	0
Texas 1-4-----	0	0	0	2,100	0	2,100
Total-----	98,650	26,001,600	26,100,250	102,075	26,001,600	26,103,675
Austral Oil Co., Inc.						
Aztec Oil & Gas Co.:						
New Mexico northwest (total)-----	10,056	0	10,056	14,556	0	14,556
Bass Enterprises Production Co.:						
Texas 8-7-----	209	0	209	0	0	0
Texas 1-4-----	1,258	0	1,258	1,258	0	1,258
Total-----	1,467	0	1,467	1,258	0	1,258
Bass, Perry R., Inc.:						
Texas 1-4 (total)-----	6,096	479	6,575	6,096	0	6,096
Belco Petroleum Corp.:						
New Mexico south-east-----	6,200	0	6,200	0	0	0
Texas 8-7-----	1,500	0	1,500	1,500	0	1,500
Wyoming-----	5,580	0	5,580	5,580	0	5,580
Total-----	13,280	0	13,280	7,080	0	7,080

See footnote at end of table, p. 1673.

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE (MM ft³ at 14.73 PSIA and 60° F.)—Continued

State or area	Volumes as of Dec. 31, 1972			Volumes as of June 30, 1973		
	Nonassociate	Associate-dissociate	Total	Nonassociate	Associate-dissociate	Total
Beta Development Co.						
Cabot Corp.:						
New York-----	965	0	965	965	0	965
Texas 10-----	0	0	0	5,221	0	5,221
Total-----	965	0	965	6,186	0	6,186
Champlin Petroleum Co.:						
Kansas-----	1,600	0	1,600	1,600	0	1,600
Texas 1-4-----	3,500	0	3,500	3,500	0	3,500
Total-----	5,100	0	5,100	5,100	0	5,100
Chevron Oil Co.—Western division:						
Utah (total)-----	0	1,932	1,932	0	0	0
Chevron Oil Co.—California company division:						
Louisiana south-----	5,356	148	5,504	5,356	141	5,497
Louisiana State-----	0	0	0	2,400	0	2,400
Total-----	5,356	148	5,504	7,756	141	7,897
Cities Service Oil Co.:						
Louisiana Fed 1-----	41,757	0	41,757	0	0	0
New Mexico southeast-----	13,856	0	13,856	7,612	0	7,612
Oklahoma ANA-----	1,071	0	1,071	117	0	117
Texas 8-7-----	3,215	0	3,215	33,028	0	33,028
West Virginia-----	13,445	0	13,445	13,445	0	13,445
Total-----	73,344	0	73,344	54,202	0	54,202
Clinton Oil Co.:						
Louisiana State 1 (total)-----	3,000	0	3,000	3,000	0	3,000
Coastal States Gas Producing Co.						
Colorado Oil & Gas Corp.						
Coltexo Corp.						
Columbia Gas Development Corp.: Louisiana Fed 1						
	75,023	0	75,023	17,136	0	17,136
Continental Oil Co.:						
California (ON)-----	900	0	900	0	0	0
Colorado-----	2,000	0	2,000	2,200	0	2,200
Louisiana south-----	0	0	0	650	0	650
Louisiana Fed 1-----	0	14,000	14,000	0	0	0
Montana-----	0	600	600	0	1,000	1,000
New Mexico, northwest-----	100	0	100	1,100	0	1,100
New Mexico, southeast-----	0	92	92	0	0	0
Oklahoma ANA-----	6,910	0	6,910	2,700	100	2,800
Texas 8-7-----	0	0	0	0	26	26
Texas 1-4-----	937	263	1,200	110	0	110
Total-----	10,847	14,955	23,802	6,760	1,126	7,886
Cox Edwin L.:						
Louisiana south-----	10,520	0	10,520	6,520	0	6,520
Oklahoma pan-----	0	0	0	1,110	0	1,110
Oklahoma ANA-----	0	0	0	1,775	0	1,775
Oklahoma Fed-----	300	0	300	500	0	500
Texas 1-4-----	2	510	512	900	300	1,200
Total-----	10,822	510	11,332	10,805	300	11,105
Diamond Shamrock Oil & Gas Co. (Diamond Shamrock Corp.):						
Louisiana south-----	9,215	0	9,215	6,911	0	6,911
Louisiana State-----	1,186	0	1,186	1,186	0	1,186
Oklahoma Fed-----	0	0	0	1,105	0	1,105
Texas 10-----	956	0	956	1,835	0	1,835
Total-----	11,357	0	11,357	11,037	0	11,037

See footnote at end of table, p. 1673.

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE (MM ft³ at 14.73 PSIA and 60° F.)—Continued

State or area	Volumes as of Dec. 31, 1972			Volumes as of June 30, 1973		
	Nonassociate	Associate-dissociate	Total	Nonassociate	Associate-dissociate	Total
Dorchester Gas Producing Co.						
Exchange Oil & Gas Corp.:						
Louisiana south	5,515	0	5,515	0	0	0
Louisiana State 1	424	0	424	0	0	0
Total	5,939	0	5,939	0	0	0
Exxon Corp.:						
Colorado	3,000	0	3,000	3,000	0	3,000
Louisiana Fed. 1	2,300	0	2,300	2,300	0	2,300
New Mexico south-east	900	0	900	7,800	0	7,800
Texas 1-4	28,800	0	28,800	19,200	0	19,200
Texas 5-6	34,600	0	34,600	28,600	0	28,600
Texas 8-7	0	97,100	97,100	0	97,800	97,800
Wyoming	1,400	0	1,400	700	0	700
Miscellaneous	0	5,800	5,800	2,300	71,00	9,400
Total	71,000	102,900	173,900	63,000	104,900	168,800
Forest Oil Corp.:						
Louisiana Fed. 1	29,483	1,000	30,483	29,483	1,000	30,483
Wyoming	22,177	0	22,177	22,177	0	22,177
Total	51,660	1,000	52,660	51,660	1,000	52,660
General American Oil Co. of Texas:						
Louisiana south	0	0	0	400	84	484
Texas 5-6	1,500	0	1,500	1,500	0	1,500
Total	1,500	0	1,500	1,900	84	1,984
Getty Oil Co.:						
Louisiana Fed. 1	14,086	1,300	15,386	18,786	1,480	20,266
Texas 8-7	626	0	626	11,055	0	11,055
Texas 1-4	3,397	0	3,397	4,679	0	4,679
West Virginia	317	0	317	317	0	317
Total	18,426	1,300	19,726	34,837	1,480	36,317
Gulf Oil Corp., Warren Petroleum Co. (comb. report):						
Colorado	0	0	0	0	496	496
Louisiana Fed. 1	4,280	172	4,452	0	0	0
New Mexico south-east	4,333	0	4,333	2,077	0	2,077
Oklahoma ANA	438	0	438	0	0	0
Oklahoma east	60	0	60	0	0	0
Texas 10	2,100	0	2,100	4,398	0	4,398
Texas 8-7	9,295	0	9,295	60,210	0	60,210
Utah	0	3,122	3,122	0	3,814	3,814
Wyoming	46	0	46	46	0	46
Total	20,552	3,294	23,846	66,731	4,310	71,041
Hassif Hunt Trust						
Louisiana Fed. 1 (Total)	4,720	0	4,720	5,510	0	5,510
Helmerich & Payne, Inc.						
Huber, J. M., Corp.:						
Colorado	1,446	0	1,446	1,446	0	1,446
Louisiana south	0	48	48	0	48	48
New Mexico south-east	235	0	235	235	0	235
Oklahoma ANA	0	0	0	1,982	508	2,490
Texas 1-4	0	0	0	2,783	0	2,783
Total	1,681	48	1,720	6,440	556	7,002
Hunt Oil Co.: Louisiana Fed. 1 (total)	24,390	0	24,390	30,520	0	30,520

See footnote at end of table, p. 1673.

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE (MM ft³ at 14.73 PSIA and 60° F.)—Continued

State or area	Volumes as of Dec. 31, 1972			Volumes as of June 30, 1973		
	Nonassociate	Associate-dissociate	Total	Nonassociate	Associate-dissociate	Total
Imperial-American Resources Fund, Inc., debtor: Colorado (Total).....	2,884	0	2,884	2,884	0	2,884
Jupiter Corp.: Texas 1-4 (total).....	3,936	0	3,936	3,787	0	3,787
Kerr-McGee Corp. Louisiana Federal 1.....	3,916	0	3,916	3,916	0	3,916
Louisiana State 1.....	5,903	1,557	7,460	9,718	1,557	11,275
Total.....	9,819	1,557	11,376	13,634	1,557	15,191
Lone Star Producing Co.: Arkansas north.....	0	0	0	107	0	107
Colorado.....	0	0	0	1,195	0	1,195
Louisiana north.....	0	0	0	3,020	0	3,020
Ohio.....	257	0	257	2,800	0	2,800
Oklahoma ANA.....	300	0	300	0	0	0
Oklahoma east.....	0	0	0	1,405	0	1,405
Texas 9.....	0	0	0	1,100	0	1,100
Texas 10.....	0	0	0	2,164	0	2,164
Texas 8-7.....	0	0	0	24,732	0	24,732
Texas 5-6.....	237	0	237	713	0	713
Texas 1-4.....	0	0	0	3,118	0	3,118
Total.....	794	0	794	40,354	0	40,354
Louisiana Land & Exploration Co.: Louisiana south.....	413	13	426	413	13	426
Louisiana Federal 1.....	3,295	2,094	5,389	3,295	2,094	5,389
Total.....	3,708	2,107	5,815	3,708	2,107	5,815
LVO Corp.						
MAPCO, Inc.: Utah (total).....	0	0	0	0	375	375
Marathon Oil Co.: South Alaska.....	598,455	0	598,455	598,455	0	598,455
California (ON).....	0	18,842	18,842	0	18,842	18,842
Louisiana north.....	1,433	0	1,433	1,414	4,660	6,074
Louisiana Federal 1.....	1,013	0	1,013	1,033	0	1,013
Oklahoma east.....	0	0	0	3,400	0	3,400
Texas 8-7.....	31,031	0	31,031	0	0	0
Wyoming.....	1,101	1,980	3,081	1,101	1,980	3,081
Total.....	633,033	20,822	653,855	605,383	25,482	630,865
McCulloch Gas Processing Corp.: Montana (total).....	5,000	0	5,000	5,000	0	5,000
Mesa Petroleum Co. (formerly Pubco): New Mexico south-east.....	0	0	0	2,257	0	2,257
Utah.....	5,508	0	5,508	5,508	0	5,508
Total.....	5,508	0	5,508	7,765	0	7,765
Mobil Oil Corp.: Colorado.....	7,134	0	7,134	7,631	0	7,631
Louisiana south.....	0	0	0	12,841	0	12,841
Louisiana Fed 1.....	0	0	0	245,000	15,000	260,000
Michigan.....	0	1,019	1,019	0	1,319	1,319
New Mexico south-east.....	2,370	7	2,377	55	1,156	1,211
Oklahoma ANA.....	0	0	0	595	0	595
Texas 9.....	0	207	207	0	188	188
Texas 10.....	0	0	0	3,674	0	3,674
Texas 8-7.....	2,209	55	2,264	2,302	47	2,349
Texas 1-4.....	31,000	6,000	37,000	22,000	0	22,000
Texas State 1.....	31,900	0	31,900	0	0	0
Total.....	74,613	7,288	81,901	294,098	17,710	311,808

See footnote at end of table, p. 1673.

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE (MM ft³ at 14.73 PSIA and 60° F.)—Continued

State or area	Volumes as of Dec. 31, 1972			Volumes as of June 30, 1973		
	Nonassociate	Associate-dissociate	Total	Nonassociate	Associate-dissociate	Total
Monsanto Co.:						
Arkansas north	60	0	60	60	0	60
New Mexico south-east	3,700	0	3,700	0	0	0
Texas 1-4	7,000	0	7,000	0	0	0
Texas State 1	20,400	0	20,400	0	0	0
Wyoming	1,044	0	1,044	1,044	0	1,044
Miscellaneous	721	0	721	721	0	721
Total	32,925	0	32,925	1,825	0	1,825
Murphy Oil Corp.						
Natural Gas & Oil Co.,						
Division of River Corp.						
Northeast Blanco Development Corp.						
Northern Natural Gas Producing Co.						
Ocean Drilling & Exploration Co.						
Pennzoil Co.:						
Montana	0	438	438	0	791	791
New Mexico south-east	502	5	507	617	4	621
Texas 8-7	25,876	42	25,918	1,704	37	1,741
Wyoming	117	0	117	117	0	117
Total	26,495	485	26,890	2,438	832	3,270
Pennzoil Producing Co.:						
Louisiana Fed 1	3,550	0	3,550	3,550	0	3,550
Mississippi	63	0	63	63	0	63
Texas 1-4	1,500	0	1,500	2,000	0	2,000
Miscellaneous	410	0	410	3,800	0	3,800
Total	5,523	0	5,523	9,413	0	9,413
Petroleum, Inc.:						
Montana, (total)	4,750	0	4,750	4,750	0	4,750
Phillips Petroleum Co.:						
South Alaska	300,000	5,000	305,000	300,000	5,000	305,000
California (ON)	50,000	0	50,000	0	0	0
Louisiana Fed 1	500	0	500	5,500	0	5,500
North Mexico southeast	1,000	0	1,000	5,950	0	5,950
Oklahoma ANA	0	100	100	0	100	100
Pennsylvania	350	0	350	350	0	350
Texas 10	1,000	0	1,000	2,600	0	2,600
West Virginia	2,400	0	2,400	2,400	0	2,400
Miscellaneous	30,000	0	30,000	30,000	0	30,000
Total	385,250	5,100	390,350	346,800	5,100	351,900
Pioneer Production Corp.						
Placid Oil Co.:						
Louisiana South	5,000	0	5,000	5,000	0	5,000
Louisiana Fed 1	24,390	0	24,390	28,780	0	28,780
Total	29,390	0	29,390	33,780	0	33,780
Rodman Corp.:						
Oklahoma ANA, (total)	0	0	0	0	4,000	4,000
Shell Oil Co.:						
South Alaska	133,000	0	133,000	133,000	0	133,000
Louisiana State	12,000	0	12,000	3,000	0	3,000
Michigan	0	1,400	1,400	7,000	6,500	13,500
New Mexico northwest	10,000	0	10,000	0	0	0
Texas 10	0	0	0	3,000	0	3,900
Texas 1-4	3,500	0	3,500	15,000	0	15,000
Utah	0	42,000	42,000	0	38,600	38,600
Total	158,500	43,400	201,900	161,900	45,100	207,000

See footnote at end of table, p. 1673.

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE (MM ft³ at 14.73 PSIA and 60° F.)—Continued

State or area	Volumes as of Dec. 31, 1972			Volumes as of June 30, 1973		
	Nonassociate	Associate-dissociate	Total	Nonassociate	Associate-dissociate	Total
Signal Oil & Gas Co.:						
California (ON).....	2,420	0	2,420	540	0	540
Louisiana Fed. ¹	0	1,750	1,750	2,700	5,900	8,600
Texas State ¹	15,000	0	15,000	15,000	0	15,000
Wyoming.....	0	19	19	0	48	48
Total.....	17,420	1,769	19,189	18,240	5,948	24,188
Signal Petroleum.....						
Skelly Oil Co.:						
Texas 8-7.....	2,667	0	2,667	19,860	0	19,860
Texas 1-4.....	4,601	9,799	14,400	0	0	0
Total.....	7,268	9,799	17,067	19,860	0	19,860
Sohio Petroleum Co.:						
Louisiana north.....	0	628	628	0	0	0
Louisiana south.....	6,820	35,228	42,048	6,820	35,228	42,048
Texas 1-4.....	0	0	0	4,293	0	4,293
Total.....	6,820	35,856	42,676	11,113	35,228	46,341
South Coast Corp.:						
Louisiana south.....	498	0	498	0	0	0
Louisiana State ¹	511	0	511	0	0	0
Total.....	1,000	0	1,000	0	0	0
Southern Natural Gas Co.—Phillips Petroleum Co.—Joint venture.....						
Southern Union Gathering Co.....						
Southern Union Production Co.....						
Stephens Production Co.: Texas 10 (total).....	2,885	0	2,885	1,088	0	1,088
Suburban Propane Gas Corp.:						
Texas 8-7 (total).....	0	0	0	5,600	0	5,600
Sun Oil Co.:						
Colorado.....	800	0	800	438	0	438
Louisiana south.....	0	400	400	0	0	0
Louisiana State ¹	4,000	100	4,100	4,000	100	4,100
Michigan.....	0	0	0	0	5,250	5,250
Ohio.....	41	0	41	41	0	41
Oklahoma ANA.....	0	0	0	1,303	0	1,303
Texan 10.....	541	0	541	1,444	0	1,444
Texas 1-4.....	34,500	0	34,500	2,700	0	2,700
Utah.....	731	1,068	1,799	0	0	0
Total.....	40,613	1,568	42,181	9,926	5,350	15,276
Superior Oil Co.:						
South Alaska.....	0	367	367	0	287	287
Colorado.....	0	3	3	0	2	2
Illinois.....	0	170	170	0	161	161
Louisiana south.....	1,411	1,391	2,802	547	1,305	1,852
Louisiana Fed ¹	92,771	0	92,771	92,771	0	92,771
New Mexico southeast.....	4,533	2	4,535	4,533	2	4,535
North Dakota.....	0	33	33	0	32	32
Oklahoma ANA.....	2	7	9	2	7	9
Texas 9.....	0	58	58	0	50	50
Texas 8-7.....	14,663	1,988	16,651	14,663	1,988	16,651
Texas 5-6.....	0	320	320	0	320	320
Texas 1-4.....	1,977	179	2,156	1,977	179	2,156
Wyoming.....	1,530	0	1,530	1,530	0	1,530
Total.....	116,887	4,518	121,405	116,023	4,333	120,356

See footnote at end of table, p. 1673.

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE (MM ft³ at 14.73 PSIA and 60° F.)—Continued

State or area	Volumes as of Dec. 31, 1972			Volumes as of June 30, 1973		
	Nonassociate	Associate-dissociate	Total	Nonassociate	Associate-dissociate	Total
Tenneco Oil Co.:						
Arkansas north	2,815	0	2,815	2,815	0	2,815
Louisiana Fed 1	6,643	5,072	11,715	86,162	5,072	91,234
New Mexico southeast	367	0	367	367	0	367
Oklahoma Panhandle	0	0	0	102	0	102
Oklahoma ANA	7,221	0	7,221	8,316	381	8,697
Oklahoma east	7,841	0	7,841	0	0	0
Texas 10	5,967	0	5,967	4,476	0	4,476
Texas 1-4	0	0	0	2,798	0	2,798
Total	30,854	5,072	35,926	105,036	5,453	110,489
Tennessee Gas Supply Co.						
Terra Resources Inc.:						
Louisiana south	0	0	0	2,256	0	2,256
Texas 1-4	708	0	708	708	0	708
Wyoming	0	0	0	1,402	0	1,402
Total	708	0	708	4,366	0	4,366
Texaco Inc.:						
South Alaska	0	492	492	0	458	458
Arkansas south	0	85	85	0	82	82
California (ON)	149,410	318	149,728	0	309	309
Colorado	5,048	2,086	7,134	6,434	1,701	8,135
Kansas	179	169	348	179	0	179
Louisiana north	448	283	731	395	268	663
Louisiana south	16,156	6,348	22,504	9,668	3,422	13,090
Louisiana Fed 1	7,151	1,788	8,939	0	0	0
Mississippi	1,816	6,012	7,828	1,665	5,725	7,390
Montana	1,568	0	1,568	1,568	0	1,568
New Mexico north-west	4,378	0	4,378	4,624	0	4,624
New Mexico south-east	5,415	255	5,670	5,415	1,575	6,990
Ohio	90	0	99	99	0	99
Oklahoma ANA	299	0	299	299	0	299
Pennsylvania	0	0	0	3,308	0	3,308
Texas 9	0	1,395	1,395	0	1,395	1,395
Texas 8-7	16,598	7,714	24,312	16,598	7,714	24,312
Texas 5-6	1,279	245	1,524	1,264	232	1,496
Texas 1-4	1,438	15,417	16,905	757	14,963	15,720
Texas Fed 1	3,515	0	3,515	3,515	0	3,515
Utah	26,317	3,189	29,506	26,313	4,910	31,223
Wyoming	13,514	0	13,514	13,539	0	13,530
Miscellaneous	0	959	959	9	955	955
Total	254,678	46,755	301,433	95,640	43,709	130,349
Texas Gas Exploration Corp.:						
Louisiana Fed 1	37,388	4,721	42,109	8,801	0	8,801
Montana	1,558	0	1,558	1,558	0	1,558
Total	38,946	4,721	43,667	10,359	0	10,359
Texas Oil & Gas Corp.:						
Colorado	0	0	0	1,848	0	1,848
New Mexico south-east	0	0	0	2,368	0	2,368
Oklahoma ANA	11,000	0	11,000	8,264	206	8,470
Texas 8-7	3,715	75	3,790	9,922	0	9,922
Texas 5-6	744	0	744	492	0	492
Texas 1-4	3,757	0	3,757	11,774	0	11,774
Total	19,216	75	19,291	34,668	206	34,874
Texas Pacific Oil Co.:						
Oklahoma ANA	2,240	0	2,240	6,420	0	6,420
Texas 8-7	3,900	0	3,900	0	40	40
Total	6,140	0	6,140	6,420	40	6,460
Transocean Oil, Inc.:						
Louisiana Fed 1	0	0	0	46,248	0	46,248
(Total)	0	0	0	46,248	0	46,248

See footnote at end of table, p. 1673.

PROVED NATURAL GAS RESERVES AVAILABLE FOR SALE (MM ft³ at 14.73 PSIA and 60° F.)—Continued

State or area	Volumes as of Dec. 31, 1972			Volumes as of June 30, 1973		
	Nonassociate	Associate-dissociate	Total	Nonassociate	Associate-dissociate	Total
Union Oil Co., of California:						
South Alaska-----	669,000	0	669,000	669,000	0	669,000
Colorado-----	971	0	971	971	0	971
Louisiana Fed ¹ -----	221,988	0	221,988	243,481	0	243,481
Kentucky-----	286	0	286	286	0	286
Oklahoma ANA-----	1,714	0	1,714	1,920	0	1,920
Texas 8-7-----	526	0	526	526	0	526
Texas 5-6-----	0	0	0	0	386	386
Texas Fed ¹ -----	60,480	0	60,480	229,009	0	229,009
Total-----	954,965	0	954,965	1,145,193	386	1,145,579
Union Texas Petroleum, Division of Allied Chemical Corp.: Texas 8-7 (Total)-----	0	0	0	18,175	100	18,275

Note: A blank line following the company name indicates the company reported no reserves available for sale.

¹ Indicates offshore area.

DOCKET R405-A

ABBREVIATIONS USED IN THIS REPORT FOR STATE AND AREA NAMES

N Slope—Alaska North Slope (Prudhoe Bay)
S Alaska—Southern Alaska
Ark No—Northern Arkansas ¹
Ark So—Southern Arkansas
Cal (On)—Onshore California
Cal Fed*—Offshore California, Federal Domain ²
Cal St*—Offshore California, State Domain ²
La No—North Louisiana
La So—Onshore South Louisiana
La Fed*—Offshore Louisiana, Federal Domain ²
La St*—Offshore Louisiana, State Domain ²
Miss—Mississippi
N Mex NW—Northwest New Mexico
N Mex SE—Southeast New Mexico
N Dakota—North Dakota
Oklahoma Panhandle Area ³
Oklahoma Anadarko Area ³
Oklahoma E—Eastern Oklahoma ³
Penn—Pennsylvania
Tex 9—Texas Railroad Commission District 9
Tex 10—Texas Railroad Commission District 10
Tex 8-7—Texas Railroad Commission Districts 8, 8A, 7B and 7C
Tex 5-6—Texas Railroad Commission Districts 5 and 6
Tex 1-4—Texas Railroad Commission Districts 1, 2, 3 and 4
Tex Fed*—Offshore Texas, Federal Domain ²
Tex St*—Offshore Texas, State Domain ²
West Va—West Virginia
Misc—Miscellaneous areas ⁴

¹ Arkansas is divided between North and South by base line separating townships North and South.

² The offshore area is measured from the coastline seaward.

³ Oklahoma is divided between Eastern and Western Oklahoma by the Central Oklahoma Indian Meridian separating Ranges E and W. Western Oklahoma is further divided between Hugoton and Anadarko by the Panhandle Meridian separating Ranges E and W.

⁴ The Miscellaneous areas include Alabama, Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, South Dakota, Tennessee, and Washington.

TABLE III.—CONCENTRATION OF UNCOMMITTED GAS RESERVES HOLDINGS IN MAJOR GAS SUPPLY AREAS
TOTAL, UNITED STATES

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					
1. Atlantic Richfield Co.	26,100,250	86.6	1. Atlantic Richfield Co.	26,103,675	84.8
2. Union Oil Co of California	954,965	88.7	2. Union Oil Co. of California	1,145,579	88.5
3. Amoco Production Co.	726,746	91.1	3. Amoco Production Co.	732,587	90.9
4. Marathon Oil Co.	653,855	93.2	4. Marathon Oil Co.	630,865	92.9
5. Phillips Petroleum Co.	390,350	94.5	5. Phillips Petroleum Co.	351,900	94.0
6. Texaco, Inc.	301,433	95.5	6. Mobil Oil Co.	311,808	95.1
7. Shell Oil Co.	201,900	96.2	7. Shell Oil Co.	207,000	95.7
8. Exxon Corp.	173,900	96.7	8. Exxon Corp.	168,800	96.3
9. Superior Oil Co.	121,405	97.1	9. Texaco, Inc.	139,349	96.7
10. Mobil Oil Corp.	81,001	97.4	10. Superior Oil Co.	120,356	97.1
11. Columbia Gas Development	75,023	97.7	11. Tenneco Oil Co.	110,489	97.5
12. Cities Service Oil Co.	73,344	97.9	12. Gulf Oil Corp.	71,041	97.7
13. Forest Oil Corp.	52,660	98.1	13. Cities Service Oil Co.	54,202	97.9
14. Texas Gas Exploration Co.	43,667	98.2	14. Forest Oil Corp.	52,660	98.1
15. Sohio Petroleum Co.	42,676	98.4	15. Sohio Petroleum Co.	46,341	98.2
16. Sun Oil Co.	42,181	98.5	16. Transocean Oil, Inc.	46,248	98.4
17. Amerada Hess Corp.	30,440	98.6	17. Lone Star Producing Co.	40,354	98.5
18. Tenneco Oil Co.	35,926	98.7	18. Amerada Hess Corp.	36,866	98.6
19. Monsanto Co.	32,925	98.8	19. Getty Oil Co.	36,317	98.7
20. Placid Oil Co.	29,390	98.9	20. Texas Oil & Gas Corp.	34,874	98.8
21. Pennzoil Co.	26,980	99.0	21. Placid Oil Co.	33,780	99.0
22. Continental Oil Co.	25,802	99.1	22. Hunt Oil Co.	30,520	99.1
23. Hunt Oil Co.	24,390	99.2	23. Signal Oil & Gas Co.	24,188	99.1
24. Gulf Oil Corp., Warren, Pa.	23,846	99.3	24. Skelly Oil Co.	19,860	99.2
25. Getty Oil Co.	19,726	99.3	25. Union Texas Petroleum	18,275	99.3
26. Texas Oil & Gas Corp.	19,291	99.4	26. Columbia Gas Development	17,136	99.3
27. Signal Oil & Gas Co.	19,189	99.5	27. Sun Oil Co.	15,276	99.4
28. Skelly Oil Co.	17,067	99.5	28. Kerr-McGee Corp.	15,191	99.4
29. Belco Petroleum Corp.	13,280	99.6	29. Aztec Oil & Gas Co.	14,556	99.5
30. Kerr-McGee Corp.	11,376	99.6	30. Cox, Edwin L.	11,105	99.5
31. Diamond Shamrock Oil	11,357	99.6	31. Diamond Shamrock Oil	11,037	99.5
32. Cox, Edwin L.	11,332	99.7	32. Texas Gas Exploration Co.	10,359	99.6
33. Aztec Oil & Gas Co.	10,056	99.7	33. Pennzoil Producing Co.	9,413	99.6
34. Bass, Perry R., Inc.	6,575	99.7	34. Chevron Oil Co., California	7,897	99.6
35. Texas Pacific Oil Co.	6,140	99.7	35. Continental Oil Co.	7,886	99.6
36. Exchange Oil & Gas Corp.	5,939	99.8	36. Mesa Petroleum Co.	7,765	99.7
37. Louisiana Land & Exploration	5,815	99.8	37. Ashland Oil, Inc.	7,110	99.7
38. Pennzoil Producing Co.	5,523	99.8	38. Belco Petroleum Corp.	7,080	99.7
39. Mesa Petroleum Co.	5,508	99.8	39. Huber, J. M., Corp.	7,002	99.7
40. Chevron Oil Co., California	5,504	99.8	40. Texas Pacific Oil Co.	6,460	99.8
41. Champlin Petroleum Co.	5,100	99.9	41. Cabot Corp.	6,186	99.8
42. McCulloch Gas Processing	5,000	99.9	42. Bass, Perry R., Inc.	6,096	99.8
43. Petroleum, Inc.	4,750	99.9	43. Louisiana Land & Exploration	5,815	99.8
44. Hassie Hunt Trust	4,720	99.9	44. Suburban Propane Gas Corp.	5,600	99.8
45. Anadarko Production Co.	4,351	99.9	45. Hassie Hunt Trust	5,510	99.9
46. Jupiter Corp.	3,936	99.9	46. Champlin Petroleum Co.	5,100	99.9
47. Clinton Oil Co.	3,000	99.9	47. McCulloch Gas Processing	5,000	99.9
48. Stephens Production Co.	2,885	99.9	48. Petroleum, Inc.	4,750	99.9
49. Imperial-American Resource	2,884	100.0	49. Terra Resources, Inc.	4,366	99.9
50. Chevron Oil Co—West	1,932	100.0	50. Rodman Corp.	4,000	99.9
51. Huber, J. M., Corp.	1,729	100.0	51. Jupiter Corp.	3,787	99.9
52. General American Oil Co.	1,500	100.0	52. Pennzoil Co.	3,270	99.9
53. Bass Enterprises Products	1,467	100.0	53. Clinton Oil Co.	3,000	100.0
54. American Petrofina Co.	1,461	100.0	54. Imperial-American Resource	2,884	100.0
55. Ashland Oil, Inc.	1,116	100.0	55. General American Oil Co.	1,984	100.0
56. South Coast Corp.	1,000	100.0	56. Monsanto Co.	1,825	100.0
57. Cabot Corp.	965	100.0	57. American Petrofina Co.	1,735	100.0
58. Lone Star Producing Co.	794	100.0	58. Bass Enterprises Product	1,258	100.0
59. Terra Resources, Inc.	708	100.0	59. Stephens Production Co.	1,088	100.0
60. Mapco, Inc.	0	100.0	60. Anadarko Production Co.	1,009	100.0
61. Rodman Corp.	0	100.0	61. Mapco, Inc.	375	100.0
62. Suburban Propane Gas Corp.	0	100.0	62. Chevron Oil Co—West	0	100.0
63. Transocean Oil, Inc.	0	100.0	63. Exchange Oil & Gas Corp.	0	100.0
64. Union Texas Petroleum	0	100.0	64. South Coast Corp.	0	100.0

Total, all companies 30,494,940

Total, all companies 30,797,845

See footnotes at end of table, p. 1681.

TABLE III.—CONCENTRATION OF UNCOMMITTED GAS RESERVES HOLDINGS IN MAJOR GAS SUPPLY AREAS—Continued

TOTAL, LOWER 48 STATES

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					
1. Amoco Production Co.	711,146	26.5	1. Amoco Production Co.	716,987	24.0
2. Texaco, Inc.	300,941	37.8	2. Union Oil Co. of California	476,579	40.0
3. Union Oil Co. of California	285,965	48.5	3. Mobil Oil Corp.	311,808	50.5
4. Exxon Corp.	173,900	55.0	4. Exxon Corp.	168,800	56.1
5. Superior Oil Co.	121,038	59.5	5. Texaco, Inc.	138,891	60.8
6. Phillips Petroleum Co.	85,350	62.7	6. Superior Oil Co.	120,069	64.8
7. Mobil Oil Corp.	81,901	65.7	7. Tenneco Oil Co.	110,489	68.5
8. Columbia Gas Development	75,023	68.5	8. Shell Oil Co.	74,000	71.0
9. Cities Service Oil Co.	73,344	71.3	9. Gulf Oil Corp., Warren, Pa.	71,041	73.4
10. Shell Oil Co.	68,900	73.8	10. Cities Service Oil Co.	54,202	75.2
11. Marathon Oil Co.	55,400	75.9	11. Forest Oil Corp.	52,660	77.0
12. Forest Oil Corp.	52,660	77.9	12. Phillips Petroleum Co.	46,900	78.6
13. Texas Gas Exploration Co.	43,667	79.5	13. Sohio Petroleum Co.	46,341	80.1
14. Sohio Petroleum Co.	42,676	81.1	14. Transocean Oil, Inc.	46,248	81.7
15. Sun Oil Co.	42,181	82.7	15. Lone Star Producing Co.	40,354	83.0
16. Tenneco Oil Co.	35,926	84.0	16. Atlantic Richfield Co.	39,275	84.3
17. Atlantic Richfield Co.	35,850	85.3	17. Getty Oil Co.	36,317	85.6
18. Monsanto Co.	32,925	86.6	18. Texas Oil & Gas Corp.	34,874	86.7
19. Placid Oil Co.	29,390	87.7	19. Placid Oil Co.	33,780	87.9
20. Pennzoil Co.	26,980	88.7	20. Marathon Oil Co.	32,410	88.9
21. Continental Oil Co.	25,802	89.6	21. Hunt Oil Co.	30,520	90.0
22. Hunt Oil Co.	24,390	90.5	22. Signal Oil & Gas Co.	24,188	90.8
23. Gulf Oil Corp., Warren Pa.	23,846	91.4	23. Skelly Oil Co.	19,860	91.4
24. Getty Oil Co.	19,726	92.2	24. Union Texas Petroleum	18,275	92.1
25. Texas Oil & Gas Corp.	19,291	92.9	25. Columbia Gas Development	17,136	92.6
26. Signal Oil & Gas Co.	19,189	93.6	26. Sun Oil Co.	15,276	93.1
27. Skelly Oil Co.	17,067	94.2	27. Kerr-McGee Corp.	15,191	93.7
28. Belco Petroleum Corp.	13,280	94.7	28. Aztec Oil & Gas Co.	14,556	94.1
29. Kerr-McGee Corp.	11,376	95.2	29. Cox Edwin L.	11,105	94.5
30. Diamond Shamrock Oil	11,357	95.6	30. Diamond Shamrock Oil	11,037	94.9
31. Cox Edwin L.	11,332	96.0	31. Texas Gas Exploration Co.	10,359	95.2
32. Aztec Oil & Gas Co.	10,056	96.4	32. Pennzoil Producing Co.	9,413	95.5
33. Bass Perry R. Inc.	6,575	96.6	33. Chevron Cil Co., California	7,897	95.8
34. Amerada Hess Corp.	6,440	96.9	34. Continental Oil Co.	7,886	96.1
35. Texas Pacific Oil Co.	6,140	97.1	35. MESA Petroleum Co.	7,765	96.3
36. Exchange Oil & Gas Corp.	5,939	97.3	36. Ashland Oil, Inc.	7,110	96.6
37. Louisiana Land & Exploration	5,815	97.5	37. Belco Petroleum Corp.	7,080	96.8
38. Pennzoil Producing Co.	5,523	97.7	38. Huber J. M. Corp.	7,002	97.0
39. MESA Petroleum Co.	5,508	98.0	39. Amerada Hess Corp.	6,866	97.3
40. Chevron Oil Co., California	5,504	98.2	40. Texas Pacific Oil Co.	6,460	97.5
41. Champkin Petroleum Co.	5,100	98.3	41. Gabot Corp.	6,186	97.7
42. McCulloch Gas Processing	5,000	98.5	42. Bass, Perry R., Inc.	6,096	97.9
43. Petroleum, Inc.	4,750	98.7	43. Louisiana Land & Exploration	5,815	98.1
44. Hassle Hunt Trust	4,720	98.9	44. Suburban Propane Gas Corp.	5,600	98.3
45. Anadarko Production Co.	4,351	99.1	45. Hassle Hunt Trust	5,510	98.5
46. Jupiter Corp.	3,936	99.2	46. Champkin Petroleum Co.	5,100	98.6
47. Clinton Oil Co.	3,000	99.3	47. McCulloch Gas Processing	5,000	98.8
48. Stephens Production Co.	2,885	99.4	48. Petroleum, Inc.	4,750	99.0
49. Imperial-American Resource	2,884	99.5	49. Terra Resources, Inc.	4,366	99.1
50. Chevron Oil Co.—West	1,932	99.6	50. Rodman Corp.	4,000	99.3
51. Huber, J. M., Corp.	1,729	99.7	51. Jupiter Corp.	3,787	99.4
52. General American Oil Co.	1,500	99.7	52. Pennzoil Co.	3,270	99.5
53. Bass Enterprises Product	1,467	99.8	53. Clinton Oil Co.	3,000	99.6
54. American Petrofina Co.	1,461	99.8	54. Imperial-American Resource	2,884	99.7
55. Ashland Oil, Inc.	1,116	99.9	55. General American Oil Co.	1,984	99.8
56. South Coast Corp.	1,009	99.9	56. Monsanto Co.	1,825	99.8
57. Gabot Corp.	965	99.9	57. American Petrofina Co.	1,735	99.9
58. Lone Star Producing Co.	794	100.0	58. Bass Enterprises Product	1,258	99.9
59. Terra Resources, Inc.	708	100.0	59. Stephens Production Co.	1,088	100.0
60. Mapco, Inc.	0	100.0	60. Anadarko Production Co.	1,009	100.0
61. Rodman Corp.	0	100.0	61. Mapco, Inc.	375	100.0
62. Suburban Propane Gas Corp.	0	100.0	62. Chevron Oil Co.—West	0	100.0
63. Transocean Oil, Inc.	0	100.0	63. Exchange Oil & Gas Corp.	0	100.0
64. Union Texas Petroleum	0	100.0	64. South Coast Corp.	0	100.0

Total, all companies 2,678,626

Total, all companies 2,981,645

TABLE III.—CONCENTRATION OF UNCOMMITTED GAS RESERVES HOLDINGS IN MAJOR GAS SUPPLY AREAS—Continued
TOTAL, ALASKA

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					
1. Atlantic Richfield Co.	26,064,400	93.7	1. Atlantic Richfield Co.	26,064,400	93.7
2. Union Oil Co. of California	669,000	96.1	2. Union Oil Co. of California	669,000	96.1
3. Marathon Oil Co.	598,455	98.3	3. Marathon Oil Co.	598,455	98.3
4. Phillips Petroleum Co.	305,000	99.4	4. Phillips Petroleum Co.	305,000	99.4
5. Shell Oil Co.	133,000	99.8	5. Shell Oil Co.	133,000	99.8
6. Amerada Hess Corp.	30,000	99.9	6. Amerada Hess Corp.	30,000	99.9
7. Amoco Production Co.	15,600	100.0	7. Amoco Production Co.	15,600	100.0
8. Texaco, Inc.	492	100.0	8. Texaco, Inc.	458	100.0
9. Superior Oil, Co.	367	100.0	9. Superior Oil Co.	287	100.0
Total, all companies	27,816,314		Total, all companies	27,816,200	
TOTAL, SOUTH LOUISIANA					
DEC. 31, 1972					
1. Union Oil Co. of California	221,988	27.0	1. Mobil Oil Corp.	272,841	25.0
2. Superior Oil Co.	95,573	38.7	2. Union Oil Co. of California	243,481	47.3
3. Columbia Gas Development	75,023	47.8	3. Superior Oil Co.	94,623	55.9
4. Texas Gas Exploration Co.	42,109	52.9	4. Tenneco Oil Co.	91,234	64.3
5. Sohio Petroleum Co.	42,048	58.0	5. Transocean Oil, Inc.	46,248	68.5
6. Cities Service Oil Co.	41,757	63.1	6. Sohio Petroleum Co.	42,048	72.4
7. Amoco Production Co.	31,461	66.9	7. Placid Oil Co.	33,780	75.5
8. Texaco, Inc.	31,443	70.8	8. Amoco Production Co.	31,461	78.4
9. Forest Oil Corp.	30,483	74.5	9. Hunt Oil Co.	30,520	81.2
10. Placid Oil Co.	29,390	78.1	10. Forest Oil Corp.	30,483	83.9
11. Hunt Oil Co.	24,390	81.0	11. Atlantic Richfield Co.	25,675	86.3
12. Atlantic Richfield Co.	19,950	83.5	12. Getty Oil Co.	20,266	88.1
13. Getty Oil Co.	15,386	85.3	13. Columbia Gas Development	17,136	89.7
14. Continental Oil Co.	14,000	87.0	14. Kerr-McGee Corp.	15,191	19.1
15. Shell Oil Co.	12,000	88.5	15. Texaco, Inc.	13,090	92.3
16. Tenneco Oil Co.	11,715	89.9	16. Texas Gas Exploration Co.	8,801	93.1
17. Kerr-McGee Corp.	11,376	91.3	17. Signal Oil and Gas Co.	8,600	93.9
18. Cox, Edwin L.	10,520	92.6	18. Diamond Shamrock Oil	8,097	94.6
19. Diamond Shamrock Oil	10,401	93.8	19. Chevron Oil Co., California	7,897	95.4
20. Amerada Hess Corp.	6,440	94.6	20. Amerada Hess Corp.	6,866	96.0
21. Exchange Oil & Gas Corp.	5,939	95.4	21. Cox, Edwin L.	6,520	96.6
22. Louisiana Land & Exploration	5,815	96.1	22. Louisiana Land & Exploration	5,815	97.1
23. Chevron Oil Co., California	5,504	96.7	23. Hassie Hunt Trust	5,510	97.6
24. Hassie Hunt Trust	4,720	97.3	24. Phillips Petroleum Co.	5,500	98.1
25. Sun Oil Co.	4,500	97.9	25. Sun Oil Co.	4,100	98.5
26. Gulf Oil Corp., Warren, Pa.	4,452	98.4	26. Pennzoil Producing Co.	3,550	98.8
27. Pennzoil Producing Co.	3,550	98.8	27. Clinton Oil Co.	3,000	99.1
28. Clinton Oil Co.	3,000	99.2	28. Shell Oil Co.	3,000	99.4
29. Exxon Corp.	2,300	99.5	29. Exxon Corp.	2,300	99.6
30. Signal Oil & Gas Co.	1,750	99.7	30. Terra Resources, Inc.	2,256	99.8
31. Marathon Oil Co.	1,013	99.8	31. Marathon Oil Co.	1,013	99.9
32. South Coast Corp.	1,009	99.9	32. Continental Oil Co.	650	100.0
33. Phillips Petroleum Co.	500	100.0	33. General American Oil Co.	484	100.0
34. Huber, J. M., Corp.	48	100.0	34. Huber, J. M., Corp.	48	100.0
35. General American Oil Co.	0	100.0	35. Cities Service Oil Co.	0	100.0
36. Mobil Oil Corp.	0	100.0	36. Exchange Oil & Gas Corp.	0	100.0
37. Terra Resources, Inc.	0	100.0	37. Gulf Oil Corp., Warren, Pa.	0	100.0
38. Transocean Oil, Inc.	0	100.0	38. South Coast Corp.	0	100.0
Total, all companies	821,553		Total, all companies	1,092,084	

See footnotes at end of table, p. 1681.

TABLE III.—CONCENTRATION OF UNCOMMITTED GAS RESERVES HOLDINGS IN MAJOR GAS SUPPLY AREAS—Continued

ONSHORE SOUTH LOUISIANA

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					
1. Sohio Petroleum Co.	42,048	30.8	1. Sohio Petroleum Co.	42,048	32.3
2. Amoco Production Co.	31,461	53.8	2. Amoco Production Co.	31,461	56.5
3. Texaco, Inc.	22,504	70.3	3. Texaco, Inc.	13,090	66.5
4. Cox, Edwin L.	10,520	78.0	4. Mobil Oil Corp.	12,841	76.4
5. Diamond Shamrock Oil	9,215	84.7	5. Diamond Shamrock Oil	6,911	81.7
6. Exchange Oil & Gas Corp.	5,515	88.7	6. Cox, Edwin L.	6,520	86.7
7. Chevron Oil Co., California	5,504	92.8	7. Chevron Oil Co., California	5,497	90.9
8. Placid Oil Co.	5,000	96.4	8. Placid Oil Co.	5,000	94.7
9. Superior Oil Co.	2,802	98.5	9. Terra Resources, Inc.	2,256	96.5
10. Atlantic Richfield Co.	700	99.0	10. Superior Oil Co.	1,852	97.9
11. South Coast Corp.	498	99.4	11. Atlantic Richfield Co.	700	98.4
12. Louisiana Land & Exploration	426	99.7	12. Continental Oil Co.	650	98.9
13. Sun Oil Co.	400	100.0	13. General American Oil Co.	484	99.3
14. Huber, J. M. Corp.	48	100.0	14. Amerada Hess Corp.	426	99.6
15. Amerada Hess Corp.	0	100.0	15. Louisiana Land & Exploration	426	100.0
16. Continental Oil Co.	0	100.0	16. Huber, J. M. Corp.	48	100.0
17. General American Oil Co.	0	100.0	17. Exchange Oil & Gas Corp.	0	100.0
18. Mobil Oil Corp.	0	100.0	18. South Coast Corp.	0	100.0
19. Terra Resources, Inc.	0	100.0	19. Sun Oil Co.	0	100.0
Total, all companies	136,641		Total, all companies	130,210	

OFFSHORE SOUTH LOUISIANA

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					
1. Union Oil Co. of California	221,988	32.4	1. Morl Oil Corp.	260,000	27.0
2. Superior Oil Co.	92,771	46.0	2. Union Oil Co. of California	243,481	52.3
3. Columbia Gas Development	75,023	56.9	3. Superior Oil Co.	92,771	62.0
4. Texas Gas Exploration Co.	42,109	63.1	4. Tenneco Oil Co.	91,234	71.5
5. Cities Service Oil Co.	41,757	69.2	5. Transocean Oil, Inc.	46,248	76.3
6. Forest Oil Corp.	30,483	73.6	6. Hunt Oil Co.	30,520	79.5
7. Hunt Oil Co.	24,390	77.2	7. Forest Oil Corp.	30,483	82.6
8. Placid Oil Co.	24,390	80.7	8. Placid Oil Co.	28,780	85.6
9. Atlantic Richfield Co.	19,250	83.5	9. Atlantic Richfield Co.	24,975	88.2
10. Getty Oil Co.	15,386	85.8	10. Getty Oil Co.	20,266	90.3
11. Continental Oil Co.	14,000	87.8	11. Columbia Gas Development	17,136	92.1
12. Shell Oil Co.	12,000	89.6	12. Kerr-McGee Corp.	15,191	93.7
13. Tenneco Oil Co.	11,715	91.3	13. Texas Gas Exploration Co.	8,801	94.6
14. Kerr-McGee Corp.	11,376	93.0	14. Signal Oil & Gas Co.	8,600	95.5
15. Texaco, Inc.	8,939	94.3	15. Amerada Hess Corp.	6,440	96.2
16. Amerada Hess Corp.	6,440	95.2	16. Hassie Hunt Trust	5,510	96.7
17. Louisiana Land & Exploration	5,389	96.0	17. Phillips Petroleum Co.	5,500	97.3
18. Hassie Hunt Trust	4,720	96.7	18. Louisiana Land & Exploration	5,389	97.9
19. Gulf Oil Corp., Warren, Pa.	4,452	97.3	19. Sun Oil Co.	4,100	98.3
20. Sun Oil Co.	4,100	97.9	20. Pennzoil Producing Co.	3,550	98.7
21. Pennzoil Producing Co.	3,550	98.4	21. Clinton Oil Co.	3,000	99.0
22. Clinton Oil Co.	3,000	98.9	22. Shell Oil Co.	3,000	99.3
23. Exxon Corp.	2,300	99.2	23. Chevron Oil Co., California	2,400	99.5
24. Signal Oil & Gas Co.	1,750	99.5	24. Exxon Corp.	2,300	99.8
25. Diamond Shamrock Oil	1,186	99.6	25. Diamond Shamrock Oil	1,186	99.9
26. Marathon Oil Co.	1,013	99.8	26. Marathon Oil Co.	1,013	100.0
27. South Coast Corp.	511	99.9	27. Cities Service Oil Co.	0	100.0
28. Phillips Petroleum Co.	500	99.9	28. Continental Oil Co.	0	100.0
29. Exchange Oil & Gas Corp.	425	100.0	29. Exchange Oil & Gas Corp.	0	100.0
30. Chevron Oil Co., California	0	100.0	30. Gulf Oil Corp., Warren, Pa.	0	100.0
31. Mobil Oil Corp.	0	100.0	31. South Coast Corp.	0	100.0
32. Transocean Oil, Inc.	0	100.0	32. Texaco, Inc.	0	100.0
Total, all companies	684,912		Total, all companies	961,874	

See footnotes at end of table, p. 1681.

TABLE III.—CONCENTRATION OF UNCOMMITTED GAS RESERVES HOLDINGS IN MAJOR GAS SUPPLY AREAS—Continued

TOTAL TEXAS GULF COAST¹

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					JUNE 30, 1973
1. Amoco Production Co.	185,839	38.1	1. Union Oil Co. of California	229,009	40.9
2. Mobil Oil Corp.	68,900	52.2	2. Amoco Production Co.	185,386	74.0
3. Union Oil Co. of California	60,480	64.6	3. Mobil Oil Corp.	22,000	77.9
4. Sun Oil Co.	34,500	71.7	4. Texaco, Inc.	19,235	81.4
5. Exxon Corp.	28,800	77.6	5. Exxon Corp.	19,200	84.8
6. Monsanto Co.	27,400	83.2	6. Shell Oil Co.	15,000	87.5
7. Texaco, Inc.	20,420	87.4	7. Signal Oil & Gas Co.	15,000	90.2
8. Signal Oil & Gas Co.	15,000	90.5	8. Texas Oil & Gas Co.	11,774	92.3
9. Skelly Oil Co.	14,400	93.4	9. Bass, Perry R., Inc.	6,096	93.4
10. Bass, Perry R., Inc.	6,575	94.8	10. Getty Oil Co.	4,679	94.2
11. Jupiter Corp.	3,936	95.6	11. Sohio Petroleum Co.	4,293	95.0
12. Texas Oil & Gas Corp.	3,757	96.4	12. Jupiter Corp.	3,787	95.6
13. Champkin Petroleum Co.	3,500	97.1	13. Champkin Petroleum Co.	3,500	96.3
14. Shell Oil Co.	3,500	97.8	14. Lone Star Producing Co.	3,118	96.8
15. Getty Oil Co.	3,397	98.5	15. Tenneco Oil Co.	2,798	97.3
16. Superior Oil Co.	2,156	98.9	16. Huber, J. M., Corp.	2,783	97.8
17. Pennzoil Producing Co.	1,500	99.2	17. Sun Oil Co.	2,700	98.3
18. Bass Enterprises Product	1,258	99.5	18. Superior Oil Co.	2,156	98.7
19. Continental Oil Co.	1,200	99.7	19. Atlantic Richfield Co.	2,100	99.1
20. Terra Resources, Inc.	708	99.9	20. Pennzoil Producing Co.	2,000	99.4
21. Cox, Edwin L.	512	100.0	21. Bass Enterprises Product	1,258	99.6
22. Atlantic Richfield Co.	0	100.0	22. Cox, Edwin L.	1,200	99.9
23. Huber, J. M., Corp.	0	100.0	23. Terra Resources, Inc.	708	100.0
24. Lone Star Producing Co.	0	100.0	24. Continental Oil Co.	110	100.0
25. Sohio Petroleum Co.	0	100.0	25. Monsanto Co.	0	100.0
26. Tenneco Oil Co.	0	100.0	26. Skelly Oil Co.	0	100.0
Total, all companies	487,738		Total, all companies	559,890	

ONSHORE TEXAS GULF COAST

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					JUNE 30, 1973
1. Amoco Production Co.	185,839	52.1	1. Amoco Production Co.	185,386	59.3
2. Mobil Oil Corp.	37,000	62.5	2. Mobil Oil Corp.	22,000	66.4
3. Sun Oil Co.	34,500	72.2	3. Exxon Corp.	19,200	72.5
4. Exxon Corp.	28,800	80.3	4. Texaco, Inc.	15,720	77.6
5. Texaco, Inc.	16,905	85.0	5. Shell Oil Co.	15,000	82.4
6. Skelly Oil Co.	14,400	89.1	6. Texas Oil & Gas Corp.	11,774	86.1
7. Monsanto Co.	7,000	91.0	7. Bass, Perry R., Inc.	6,096	88.1
8. Bass, Perry R., Inc.	6,575	92.9	8. Getty Oil Co.	4,679	89.6
9. Jupiter Corp.	3,936	94.0	9. Sohio Petroleum Co.	4,293	91.0
10. Texas Oil & Gas Corp.	3,757	95.0	10. Jupiter Corp.	3,787	92.2
11. Champkin Petroleum Co.	3,500	96.0	11. Champkin Petroleum Co.	3,500	93.3
12. Shell Oil Co.	3,500	97.0	12. Lone Star Producing Co.	3,118	94.3
13. Getty Oil Co.	3,397	97.9	13. Tenneco Oil Co.	2,798	95.2
14. Superior Oil Co.	2,156	98.5	14. Huber, J. M., Corp.	2,783	96.1
15. Pennzoil Producing Co.	1,500	99.0	15. Sun Oil Co.	2,700	96.9
16. Bass Enterprises Product	1,258	99.3	16. Superior Oil Co.	2,156	97.6
17. Continental Oil Co.	1,200	99.7	17. Atlantic Richfield Co.	2,100	98.3
18. Terra Resources, Inc.	708	99.9	18. Pennzoil Producing Co.	2,000	99.0
19. Cox, Edwin L.	512	100.0	19. Bass Enterprises Product	1,258	99.4
20. Atlantic Richfield Co.	0	100.0	20. Cox, Edwin L.	1,200	99.7
21. Huber, J. M., Corp.	0	100.0	21. Terra Resources, Inc.	708	100.0
22. Lone Star Producing Co.	0	100.0	22. Continental Oil Co.	110	100.0
23. Sohio Petroleum Co.	0	100.0	23. Monsanto Co.	0	100.0
24. Tenneco Oil Co.	0	100.0	24. Skelly Oil Co.	0	100.0
Total, all companies	356,443		Total, all companies	312,366	

See footnotes at end of table, p. 1681.

TABLE III.—CONCENTRATION OF UNCOMMITTED GAS RESERVES HOLDINGS IN MAJOR GAS SUPPLY AREAS—Continued
OFFSHORE TEXAS

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					
1. Union Oil Co. of California.....	60,480	46.1	1. Union Oil Co. of California.....	229,009	92.5
2. Mobil Oil Corp.....	31,900	70.4	2. Signal Oil & Gas Co.....	15,000	98.6
3. Monsanto Co.....	20,400	85.9	3. Texaco, Inc.....	3,515	100.0
4. Signal Oil & Gas Co.....	15,000	97.3	4. Mobil Oil Corp.....	0	100.0
5. Texaco, Inc.....	3,515	100.0	5. Monsanto Co.....	0	100.0
Total, all companies.....	131,295	-----	Total, all companies.....	247,524	-----

OTHER SOUTHWEST ²

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					
1. Amoco Production Co.....	97,245	60.4	1. Amoco Production Co.....	96,937	60.0
2. Exxon Corp.....	34,600	81.8	2. Exxon Corp.....	28,600	77.7
3. Texaco, Inc.....	11,563	89.0	3. Texaco, Inc.....	11,026	84.5
4. Tenneco Oil Co.....	10,656	95.6	4. Marathon Oil Co.....	9,474	90.4
5. General American Oil Co.....	1,500	96.5	5. Lone Star Producing Co.....	6,345	94.3
6. American Petroleum Co.....	1,401	97.4	6. Tenneco Oil Co.....	2,815	96.0
7. Marathon Oil Co.....	1,433	98.3	7. American Petroleum Co.....	1,735	97.1
8. Texas Oil & Gas Corp.....	744	98.8	8. General American Oil Co.....	1,500	98.0
9. Sohio Petroleum Co.....	628	99.2	9. Diamond Shamrock Oil.....	1,105	98.7
10. Superior Oil Co.....	378	99.4	10. Cox, Edwin L.....	500	99.0
11. Cox, Edwin L.....	300	99.6	11. Texas Oil & Gas Corp.....	492	99.3
12. Lone Star Producing Co.....	237	99.8	12. Union Oil Co. of California.....	386	99.6
13. Mobil Oil Corp.....	207	99.9	13. Superior Oil Co.....	370	99.8
14. Pennzoil Producing Co.....	63	99.9	14. Mobil Oil Corp.....	188	99.9
15. Gulf Oil Corp., Warren, Pa.....	60	100.0	15. Pennzoil Producing Co.....	63	100.0
16. Monsanto Co.....	60	100.0	16. Monsanto Co.....	60	100.0
17. Diamond Shamrock Oil.....	0	100.0	17. Gulf Oil Corp., Warren, Pa.....	0	100.0
18. Union Oil Co., of California.....	0	100.0	18. Sohio Petroleum Co.....	0	100.0
Total, all companies.....	161,135	-----	Total, all companies.....	161,596	-----

PERMIAN BASIN ²

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					
1. Amoco Production Co.....	380,130	58.4	1. Amoco Production Co.....	379,687	50.7
2. Exxon Corp.....	98,000	73.4	2. Exxon Corp.....	105,600	64.8
3. Marathon Oil Co.....	31,031	78.2	3. Gulf Oil Corp., Warren, Pa.....	62,287	73.1
4. Texaco, Inc.....	29,982	82.8	4. Cities Service Oil Co.....	40,640	78.5
5. Pennzoil Co.....	26,425	86.8	5. Texaco, Inc.....	31,302	82.7
6. Superior Oil Co.....	21,186	90.1	6. Lone Star Producing Co.....	24,732	86.0
7. Cities Service Oil Co.....	17,071	92.7	7. Superior Oil Co.....	21,186	88.8
8. Gulf Oil Corp., Warren, Pa.....	13,628	94.8	8. Skelly Oil Co.....	19,860	91.5
9. Belco Petroleum Corp.....	7,700	96.0	9. Union Texas Petroleum.....	18,275	93.9
10. Mobil Oil Corp.....	4,641	96.7	10. Texas Oil & Gas Corp.....	12,290	95.5
11. Atlantic Richfield Co.....	4,400	97.4	11. Getty Oil Co.....	11,055	97.0
12. Texas Pacific Oil Co.....	3,900	98.0	12. Phillips Petroleum Co.....	5,950	97.8
13. Texas Oil & Gas Corp.....	3,790	98.6	13. Suburban Propane Gas Corp.....	5,600	98.5
14. Monsanto Co.....	3,700	99.1	14. Mobil Oil Corp.....	3,560	99.0
15. Skelly Oil Co.....	2,667	99.5	15. Pennzoil Co.....	2,362	99.3
16. Phillips Petroleum Co.....	1,000	99.7	16. Mesa Petroleum Co.....	2,257	99.6
17. Getty Oil Co.....	626	99.8	17. Belco Petroleum Corp.....	1,500	99.8
18. Union Oil Co. of California.....	526	99.9	18. Union Oil Co. of California.....	526	99.9
19. Tenneco Oil Co.....	367	99.9	19. Tenneco Oil Co.....	367	100.0
20. Huber, J. M., Corp.....	235	100.0	20. Huber, J. M., Corp.....	235	100.0
21. Bass Enterprises Product.....	209	100.0	21. Texas Pacific Oil Co.....	40	100.0
22. Continental Oil Co.....	92	100.0	22. Continental Oil Co.....	26	100.0
23. Lone Star Producing Co.....	0	100.0	23. Atlantic Richfield Co.....	0	100.0
24. Mesa Petroleum Co.....	0	100.0	24. Bass Enterprises Product.....	0	100.0
25. Suburban Propane Gas Corp.....	0	100.0	25. Marathon Oil Co.....	0	100.0
26. Union Texas Petroleum.....	0	100.0	26. Monsanto Co.....	0	100.0
Total, all companies.....	651,306	-----	Total, all companies.....	749,337	-----

See footnotes at end of table, p. 1681.

TABLE III.—CONCENTRATION OF UNCOMMITTED GAS RESERVES HOLDINGS IN MAJOR GAS SUPPLY AREAS—Continued
HUGOTON-ANADARKO⁴

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					
1. Tenneco Oil Co.	13,188	25.3	1. Tenneco Oil Co.	13,275	14.6
2. Texas Oil & Gas Corp.	11,000	46.3	2. Amoco Production Co.	11,350	27.0
3. Continental Oil Co.	6,910	59.6	3. Texas Oil & Gas Corp.	8,470	36.3
4. Anadarko Production Co.	2,950	65.2	4. Ashland Oil, Inc.	7,050	44.0
5. Stephens Production Co.	2,885	70.8	5. Texas Pacific Oil Co.	6,420	51.1
6. Gulf Oil Corp., Warren, Pa.	2,538	75.6	6. Cabot Corp.	5,221	56.8
7. Texas Pacific Oil Co.	2,240	79.9	7. Gulf Oil Corp., Warren, Pa.	4,398	61.6
8. Union Oil Co. of California	1,714	83.2	8. Mobil Oil Corp.	4,269	66.3
9. Champkin Petroleum Co.	1,600	86.3	9. Rodman Corp.	4,000	70.7
10. Amoco Production Co.	1,485	89.1	10. Shell Oil Co.	3,900	75.0
11. Phillips Petroleum Co.	1,100	91.2	11. Cox, Edwin L.	2,885	78.1
12. Cities Service Oil Co.	1,071	93.3	12. Continental Oil Co.	2,800	81.2
13. Ashland Oil, Inc.	1,056	95.3	13. Sur. Oil Co.	2,747	84.2
14. Diamond Shamrock Oil	956	97.1	14. Phillips Petroleum Co.	2,700	87.2
15. Texaco, Inc.	647	98.4	15. Huber, J. M. Corp.	2,490	89.9
16. Sun Oil Co.	541	99.4	16. Lone Star Producing Co.	2,164	92.3
17. Lone Star Producing Co.	300	100.0	17. Union Oil Co. of California	1,920	94.4
18. Superior Oil Co.	9	100.0	18. Diamond Shamrock Oil	1,835	96.4
19. Cabot Corp.	0	100.0	19. Champkin Petroleum Co.	1,600	98.1
20. Cox, Edwin L.	0	100.0	20. Stephens Production Co.	1,088	99.3
21. Huber, J. M., Corp.	0	100.0	21. Texaco, Inc.	478	99.9
22. Mobil Oil Corp.	0	100.0	22. Cities Service Oil Co.	117	100.0
23. Rodman Corp.	0	100.0	23. Superior Oil Co.	9	100.0
24. Shell Oil Co.	0	100.0	24. Anadarko Production Co.	0	100.0
Total, all companies	52,190		Total, all companies	91,186	

APPALACHIAN⁵

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1972					
1. Cities Service Oil Co.	13,445	73.3	1. Cities Service Oil Co.	13,445	55.6
2. Phillips Petroleum Co.	2,750	88.4	2. Texaco, Inc.	3,407	69.7
3. Cabot Corp.	965	93.6	3. Lone Star Producing Co.	2,800	81.3
4. Getty Oil Co.	317	95.3	4. Phillips Petroleum Co.	2,750	92.7
5. Union Oil Co. of California	286	96.9	5. Cabot Corp.	965	96.7
6. Lone Star Producing Co.	257	98.3	6. Getty Oil Co.	317	98.0
7. Superior Oil Co.	170	99.2	7. Union Oil Co. of California	286	99.2
8. Texaco, Inc.	99	99.8	8. Superior Oil Co.	161	99.8
9. Sun Oil Co.	41	100.0	9. Sun Oil Co.	41	100.0
Total, all companies	18,330		Total, all companies	24,172	

See footnotes at end of table, p. 1681.

TABLE III.—CONCENTRATION OF UNCOMMITTED GAS RESERVES HOLDINGS IN MAJOR GAS SUPPLY AREAS—Con.
ROCKY MOUNTAIN⁶

Rank and producer	Million cubic feet	Cumulative percent held	Rank and producer	Million cubic feet	Cumulative percent held
DEC. 31, 1974					
1. Texaco, Inc.	56,100	25.2	1. Texaco, Inc.	59,089	27.2
2. Shell Oil Co.	52,000	48.5	2. Shell Oil Co.	38,600	45.0
3. Forest Oil Corp.	22,177	58.5	3. Forest Oil Corp.	22,177	55.2
4. Amoco Production Co.	13,480	64.6	4. Aztec Oil & Gas Co.	14,556	61.9
5. Atlantic Richfield Co.	11,500	69.7	5. Atlantic Richfield Co.	11,500	67.2
6. Aztec Oil & Gas Co.	10,056	74.2	6. Amoco Production Co.	10,660	72.1
7. Mobil Oil Corp.	7,134	77.4	7. Mobil Oil Corp.	7,631	75.6
8. Belco Petroleum Corp.	5,580	80.0	8. Belco Petroleum Corp.	5,580	78.2
9. Mesa Petroleum Co.	5,508	82.4	9. Mesa Petroleum Co.	5,508	80.7
10. McCulloch Gas Processing	5,000	84.7	10. McCulloch Gas Processing	5,000	83.0
11. Petroleum, Inc.	4,750	86.8	11. Petroleum, Inc.	4,750	85.2
12. Exxon Corp.	4,400	88.8	12. Gulf Oil Corp., Warren, Pa.	4,356	87.2
13. Gulf Oil Corp., Warren, Pa.	3,168	90.2	13. Continental Oil Co.	4,300	89.2
14. Marathon Oil Co.	3,081	91.6	14. Exxon Corp.	3,700	90.9
15. Imperial-American Resources	2,884	92.9	15. Marathon Oil Co.	3,081	92.3
16. Continental Oil Co.	2,700	94.1	16. Imperial-American Resource	2,884	93.6
17. Sun Oil Co.	2,599	95.3	17. Texas Oil & Gas Corp.	1,848	94.5
18. Chevron Oil Co.—West	1,932	96.1	18. Superior Oil Co.	1,554	95.2
19. Superior Oil Co.	1,566	96.8	19. Texas Gas Exploration Co.	1,558	95.9
20. Texas Gas Exploration Co.	1,558	95.5	20. Huber, J. M. Corp.	1,446	96.6
21. Huber, J. M. Corp.	1,446	98.2	21. Terra Resources, Inc.	1,402	97.2
22. Anadarko Production Co.	1,401	98.8	22. Lone Star Producing Co.	1,195	97.8
23. Monsanto Co.	1,044	99.3	23. Monsanto Co.	1,044	98.2
24. Union Oil Co. of California	971	99.7	24. Anadarko Production Co.	1,009	97.7
25. Pennzoil Co.	555	100.0	25. Union Oil Co. of California	971	99.2
26. Ashland Oil, Inc.	60	100.0	26. Pennzoil Co.	908	99.6
27. Signal Oil & Gas Co.	19	100.0	27. Sun Oil Co.	438	99.8
28. Lone Star Producing Co.	0	100.0	28. Mapco, Inc.	375	100.0
29. Mapco, Inc.	0	100.0	29. Ashland Oil, Inc.	60	100.0
30. Terra Resources, Inc.	0	100.0	30. Signal Oil & Gas Co.	48	100.0
31. Texas Oil & Gas Corp.	0	100.0	31. Chevron Oil Co.—West	0	100.0
Total, all companies	222,669		Total, all companies	217,238	
TOTAL CALIFORNIA					
DEC. 31, 1972					
1. Texaco, Inc.	149,728	67.5	1. Marathon Oil Co.	18,842	95.7
2. Phillips Petroleum Co.	50,000	90.0	2. Signal Oil & Gas Co.	540	98.4
3. Marathon Oil Co.	18,842	98.5	3. Texaco, Inc.	309	100.0
4. Signal Oil & Gas Co.	2,420	99.6	4. Continental Oil Co.	0	100.0
5. Continental Oil Co.	900	100.0	5. Phillips Petroleum Co.	0	100.0
Total, all companies	221,890		Total, all companies	19,691	
MICHIGAN					
DEC. 31, 1972					
1. Shell Oil Co.	1,400	57.9	1. Shell Oil Co.	13,500	67.3
2. Mobil Oil Corp.	1,019	100.0	2. Sun Oil Co.	5,250	93.4
3. Sun Oil Co.	0	100.0	3. Mobil Oil Corp.	1,319	100.0
Total, all companies	2,419		Total, all companies	20,069	
ALL OTHER AREAS					
DEC. 31, 1972					
1. Phillips Petroleum Co.	30,000	76.1	1. Phillips Petroleum Co.	30,000	64.7
2. Exxon Corp.	5,800	90.9	2. Exxon Corp.	9,400	84.9
3. Amoco Production Co.	1,506	94.7	3. Pennzoil Producing Co.	3,800	93.1
4. Texaco, Inc.	959	97.1	4. Amoco Production Co.	1,506	96.4
5. Monsanto Co.	721	99.0	5. Texaco, Inc.	955	98.4
6. Pennzoil Producing Co.	410	100.0	6. Monsanto Co.	721	100.0
Total, all companies	39,396		Total, all companies	46,382	

¹ Texas RR. Districts 1, 2, 3, 4, and offshore Texas.

² Arkansas, North Louisiana, Mississippi, eastern Oklahoma, and Texas RR. Districts 5, 6, and 9.

³ Texas RR. Districts 7B, 7C, 8, 8A, and Southeastern New Mexico.

⁴ Kansas, Oklahoma, Anadarko, Oklahoma Panhandle, and Texas RR. District 1.

⁵ Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

⁶ Colorado, Montana, Nebraska, northwest New Mexico, North Dakota, Utah, and Wyoming.

TABLE IV.—LARGE PRODUCER NATURAL GAS RESERVES AVAILABLE FOR SALE,¹ IN MAJOR GAS SUPPLY AREAS

(All volumes in millions of cubic feet at 14.73 p.s.i.a. and 60° F.)

Area	AGA proven reserves Dec. 31, 1972			Reserves available for sale Dec. 31, 1972			Reserves available for sale June 30, 1973		
	Nonassociated	Association dissolved	Total	Nonassociated	Association dissolved	Total	Nonassociated	Association dissolved	Total
South Louisiana	59,500,220	12,135,944	71,636,164	738,043	83,510	821,553	1,013,260	78,824	1,092,084
Onshore	235,085,930	7,818,330	242,904,760	92,385	44,276	136,641	89,269	40,941	130,210
Offshore				645,678	39,234	684,912	923,991	37,883	961,874
Federal	24,414,290	(²)	4,317,114	28,731,404	618,654	37,577	656,231	900,687	36,226
State				56,079,693	27,024	49,016	28,681	23,304	936,913
Texas gulf coast ³	41,988,876	14,090,817	56,079,693	438,722	48,738	522	48,738	1,657	24,961
Onshore				307,427	131,295	0	356,443	281,008	559,890
Offshore							131,295	247,524	312,366
Federal							0	0	247,524
State							63,995	232,524	232,524
Permian Basin ⁴	14,850,537	10,385,758	25,236,295	67,300	0	67,300	15,000	0	15,000
Hugoton-Anadarko ⁵	29,368,115	1,890,101	31,258,216	254,216	397,090	651,306	349,093	400,244	749,337
Other Southwest	14,030,763	5,172,467	19,233,320	51,914	276	52,190	85,884	5,302	91,186
Rocky Mountain ⁶	14,349,800	1,846,847	16,196,647	57,794	103,341	161,135	53,908	10,688	161,586
Appalachian ⁷	4,098,750	280,667	4,379,417	18,160	170	222,669	163,429	53,809	217,238
Unclassified areas:							18,330	24,011	24,172
Michigan	293,938	385,580	679,518	0	2,419	2,419	7,000	13,069	20,089
California	2,289,908	2,755,181	5,045,089	202,730	19,160	221,890	540	19,151	19,691
All others	244,959	199,384	444,343	31,131	8,265	39,396	36,821	9,561	46,382
Total "Lower 48"	181,015,866	49,142,746	230,158,612	1,957,434	721,192	2,678,626	2,262,478	719,167	2,981,645
Alaska	5,056,777	26,398,666	31,455,443	1,780,455	26,035,859	27,816,314	1,780,455	26,035,745	27,816,200
North Slope	5,056,777	26,000,000	26,000,000	0	26,000,000	26,000,000	0	26,000,000	26,000,000
South Alaska				1,780,455	35,859	1,816,314	1,780,455	35,745	1,816,200
Total United States	186,072,643	75,541,412	261,614,055	3,737,889	26,757,051	30,494,940	4,042,933	26,754,912	30,797,845

¹ Table contains data for all 84 large producers required to report.² Includes offshore State domain.³ Texas RR Districts 1, 2, 3, 4 and offshore Texas.⁴ Texas RR Districts 7B, 7C, 8, 8A, and Southeast New Mexico.⁵ Kansas, Texas RR District 10, and Oklahoma Panhandle and Anadarko areas.⁶ Arkansas, north Louisiana, Mississippi, Texas RR Districts 5, 6, and 9, and eastern Oklahoma.⁷ Colorado, Montana, Nebraska, Northwest New Mexico, North Dakota, Utah, and Wyoming.⁸ Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia.⁹ Not available.

FEDERAL POWER COMMISSION,
Washington, December 4, 1973.

Hon. PHILIP A. HART,

*Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary,
 U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Attached is a copy of my decision on the proposed disciplinary action against Mr. Lawrence R. Mangen of the staff of the Federal Power Commission Bureau of Natural Gas.

To avoid an unwarranted invasion of personal privacy, the Civil Service Commission regulations require that a decision in such a case be released only upon the consent of the employee involved. Mr. Mangen has consented to my furnishing you with a copy.

Very truly yours,

WEBSTER P. MAXSON, *Executive Director.*

Enclosure.

FEDERAL POWER COMMISSION,
Washington, D.C.

In the matter of:

LAWRENCE R. MANGEN, GAS SUPPLY & PRODUCTION SECTION, SYSTEMS OPERATIONS DIVISION, BUREAU OF NATURAL GAS

PROPOSAL TO SUSPEND WITHOUT PAY

DECISION BY THE EXECUTIVE DIRECTOR, DECEMBER 4, 1973

This is a proceeding pursuant to 5 U.S.C. 7501 and the U.S. Civil Service Commission's regulations in 5 CFR Part 752, Subpart C. The proceeding was instituted on July 29, 1973, by the service of charges on Mr. Lawrence R. Mangen, Supervising Engineer, Bureau of Natural Gas, alleging that he violated the Federal Power Commission's Order of September 12, 1972, in FPC Docket No. R-405. The procedure herein is that prescribed by the Civil Service Commission in 5 CFR 752.302.

The charges recite the fact that the Federal Power Commission's September 12, 1972, order imposed upon Mr. Mangen a duty to "maintain in confidential status" certain reports concerning uncommitted natural gas reserves filed with him pursuant to the order by natural gas companies. The charges allege that he violated the order, and specifically his duty thereunder as the designated custodian of these confidential reports by attempting to destroy them and by returning one to the reporting company without authority.

Mr. Mangen was given ten days in which to respond to the charges, and he did so in writing on August 1, 1973, with a supplemental response filed on August 17, 1973. In essence, his response is that the September 12, 1972, order did not instruct him *not* to dispose of the confidential reports, that the purpose of the order was to gather information from which the FPC staff could prepare and publish a composite report on uncommitted gas reserves, and that after such report was published he returned one report to the reporting company and tried to destroy the rest because he believed that this was the accepted procedure employed in two previous surveys of uncommitted gas reserves, one in the same proceeding, R-405. Finally, Mr. Mangen alleges that he was instructed by the Chief of the Bureau of Natural Gas to treat the confidential reports in this instance in the same way as in the previous survey in the same proceeding.

The charges arose from an investigation of the matter by the Executive Director ordered by the Chairman of the Federal Power Commission on May 21, 1973, when the attempted destruction was discovered. By letter of June 11, 1973, to the Chairman of the Federal Power Commission, Senator Philip A. Hart, Chairman of the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, announced that he had instructed the Subcommittee staff to undertake a comprehensive investigation of the attempted destruction to enable a public accounting of responsibility therefor.

Because the Executive Director was not given access to the information revealed to the Subcommittee staff while its investigation was in progress, it was felt that in fairness to Mr. Mangen the decision in this case should be postponed until the public accounting was made by Senator Hart. On October 16, 17, 18, 1973, Senator Hart's Subcommittee held joint hearings on the attempted destruction of the R-405 reports with the Senate Judiciary Subcommittee on Administrative Practice and Procedure, at which the relevant evidence developed by the Hart Subcommittee investigation was spread on a public record. Thereafter, but before

a decision could be issued in this case, the National President of the American Federation of Government Employees interceded in Mr. Mangen's behalf, arguing that by attempting to destroy the records Mr. Mangen was simply performing his duty as he understood it consistent with past policy and practice relating to the handling of confidential gas reserves records at the Federal Power Commission. Again, in fairness to Mr. Mangen, the Executive Director temporarily withheld a decision and, by letter dated October 30, 1973, afforded the union an opportunity to participate in the case in Mr. Mangen's behalf by filing any materials it wished by November 9, 1973, or in the alternative to decline the opportunity before that date and allow the matter to be decided on the basis of the evidence available. The union filed nothing. Although neither Subcommittee has issued a report on its findings, all of the evidence relating to the case now is available, and a decision may be made.

The circumstances of the case

Based upon a review of the evidence developed in the Executive Director's investigation and that revealed by the Subcommittees' joint public hearings on the attempted destruction, the facts in the case are as follows:

On November 4, 1970, the Federal Power Commission instituted a rulemaking proceeding, Docket No. R-405, Reliability of Electric and Gas Service, with the issuance of a "Policy Statement, Notice of Investigation, and Proposed Rulemaking with Respect to Developing Emergency Plans." The Notice of Investigation directed, among other things, an extensive data collection from jurisdictional nonjurisdictional production, transmission, and distribution electric and gas companies. Two Commissioners filed separate dissents.

The Notice of Investigation ordered large producers of natural gas to make available to FPC investigators certain company data concerning holdings on December 31, 1969, and October 1, 1970, of proven reserves which had not been contracted to pipeline companies for resale or to direct customers for immediate consumption. In eliciting this information, the order announced that although the information (and any underlying data which might be requested) would be required to be made available to staff investigators on an individual company basis, its confidentiality would be protected, and only composite figures would be made public. Thereafter, three FPC investigators designated by name in the November 4, 1970, order examined the company data in offices set up for purposes of the inquiry in Houston, Texas, Tulsa, Oklahoma, and Washington, D.C. There they copied the desired information onto staff worksheets from records brought to them by company representatives, and thereafter furnished it to the Commission for use in assessing the developing gas shortage situation.

On September 12, 1972, the Commission issued a further order in Docket No. R-405 entitled "Order Updating Nationwide Investigation." That order, which is the order involved in this case, called for similar information with respect to natural gas reserves as of December 31, 1971, and June 30, 1972, but prescribed a different procedure for its collection. Ordering Paragraph No. 1 directed the companies listed in Appendix A to submit written reports which responded item-by-item to the questionnaire set forth in Appendix B. The prescribed reports were to be filed with Mr. Lawrence R. Mangen of the Bureau of Natural Gas at the Commission's headquarters offices in Washington. The filings were to be "plainly marked Confidential," and Ordering Paragraph No. 2 contained the following instruction concerning the handling of the reports filed:

For the purposes of this investigation no responses submitted in compliance herewith shall be made available for inspection or copying by the public; individual company information received as a result of this continued investigation will be maintained in confidential status in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552 (b)(4) and (9).

Over the next few months all 79 of the large producers listed in Appendix A of the September 12, 1972, order filed with Mangen in Washington the required information with respect to their gas reserves available for sale or filed statements to the effect that they had no uncommitted reserves on the dates specified in the order. As the data were received, the company filings were closely held by Mangen, kept under lock in his office, and generally were taken out only for purposes of extractions and computations by him or by Carl Pavetto or Joyce Powell of his section.

From the reports filed by the companies Mangen prepared several worksheets which identify figures with individual companies and therefore, like the company

filings from which they were extracted, are confidential. In addition, Mangen produced some 43 worksheets which consist of schedules of aggregated figures, each of which does not reveal the reserves information of individual companies except by comparison with other information. Therefore these worksheets may or may not be confidential.

Although these tabulations, comparisons, and composites prepared by Mangen or under his supervision were examined by and discussed among Mangen, Pavetto, Joyce Powell, Thomas J. Joyce, Chief of the Bureau of Natural Gas, Frederick D. Cornelius, Chief of the Division of Systems Operations, and Edward A. Albares, Head of the Gas Supply and Production Section, Systems Operations Division, Bureau of Natural Gas, they were not made available outside Mangen's office staff or the group of Mangen's supervisors while this work was in progress because of the confidentiality of the data from which they were taken and the possibility of unintentional disclosure of individual company figures by comparison of different schedules.

By memorandum to the Commission dated February 9, 1973, the Chief of the Bureau of Natural Gas submitted a report prepared by Mangen from the company filings and the previous data collection. The memorandum included a summary schedule showing total large producer gas reserves available for sale on December 31, 1969, October 1, 1970, December 31, 1971, and June 30, 1972, and attached three tables providing breakdowns of these figures by area and by nonassociated and associated-dissolved gas reserves. All of the information in the summary and in the tables was in composite form so that nothing in the report revealed confidential data of individual companies. On February 22, 1973, the reserves information provided in the staff report was published, with an appropriate news release.

On February 27, 1973, Dr. John W. Wilson, Chief of the Division of Economic Studies, Office of Economics, directed a staff economist in his Division, Mr. Melvin Kofkin, to attempt to learn from the information filed by the companies which individual producers and which areas accounted for the total reserves reported to be available for sale on June 30, 1972. He sent Kofkin a handwritten note instructing him to consult with him before contacting anyone in the Bureau of Natural Gas. Wilson's interest in the underlying confidential data, as it was explained by Wilson and Kofkin, was to try to learn what concentration of control of gas available for sale might exist, by company and by region, for use in testimony Wilson was scheduled to give in proceedings before the FPC.

After consulting with Wilson, as directed, on February 27, 1973, Kofkin tried to gain access to the confidential company filings through various employees of the Bureau of Natural Gas, coming ultimately to Mr. Victor Zabel, an employee of the Gas Supply and Production Section who Kofkin thought had access to the desired confidential records. When called by telephone by Kofkin on February 27, Zabel turned the call over to Mangen, and Mangen advised Kofkin that he was designated custodian of the company filings by Commission order and that he could not release them to anyone except upon further direction by the Commission.

In this initial telephone conversation with Kofkin on February 27, 1973, Mangen apparently made some reference to his intention to destroy the company filings following publication of the composited information on February 22, 1973, which Kofkin claims he understood as advice that the company filings already had been destroyed. Kofkin, on the same day, reported to Wilson that Zabel, not Mangen, had told him over the telephone that the back-up data already had been destroyed. Wilson told Kofkin to do nothing further and that he, Wilson, would take it from there. Thereupon, Wilson took up with the FPC Chief Economist, Dr. Haskell P. Wald, the matter of his request through Kofkin and the Bureau of Natural Gas response. Within the next three days, Wald met with Thomas J. Joyce, Chief of the Bureau of Natural Gas, and received from him an agreement to provide the Office of Economics with aggregated figures from the confidential filings showing the amounts of uncommitted reserves available for sale by the four largest producers and the eight largest producers, by area. This was on or about March 2, 1973. Thereafter Wald informed Wilson that these figures would be forthcoming.

By letter dated March 7, 1973, Senator Philip A. Hart, Chairman of the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, requested that the Federal Power Commission provide his Subcommittee and the Federal Trade Commission with certain information as to the manner in which the data in the Updated Nationwide Investigation under R-405 was collected, verified, and analyzed. The letter also asked for the confidential figures showing the uncommitted reserves of each of the 79 producers who filed reports in R-405, together

with the identity of each individual producer's pipeline customers, the amounts of gas sold to each, and the prices obtained therefor during the 1970 to mid-1971 period.

By letter of March 20, 1973, from Thomas J. Joyce, Chief of the Commission's Bureau of Natural Gas, Senator Hart was supplied with the requested information, except the detailed data on specific reserves held by individual producers. As to this latter information, Senator Hart was advised that the requested information was confidential in its disaggregated form in accordance with the provisions of Section 8(b) of the Natural Gas Act, 15 U.S.C. 717g(b), and the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (a). This letter was prepared for Joyce's signature by Mr. Mangen.

On the following day, March 21, 1973, Joyce sent to Wald a memorandum furnishing the figures he had promised to the Office of Economics. These figures were prepared by Mangen. Joyce's memorandum noted that furnishing these composited figures did not violate the confidentiality requirement of the September 12, 1972 order, but he nevertheless requested that the composited report be treated as administratively confidential. By handwritten note to Dr. Wilson, dated March 22, 1973, Dr. Wald transmitted the BNG composited report, indicating that at last the Office of Economics had received a response to his request and that he would "be interested in the percentages."

Apparently a week or more went by before Wilson delivered the March 21 composited data to Kofkin and asked him to pick up where he left off on February 27, 1973. On or about April 2, 1973, Kofkin called Mangen to point out substantial errors in the March 21 composited data, and the next day came over to Mangen's office to receive corrected figures from Mr. Pavetto. The following day, April 4, 1973, Kofkin was again in touch with Mangen, claiming errors in the published staff report of February 22, 1973. On that occasion he was advised by Mangen that those figures could not be corrected because Mangen no longer had the back-up data from which they were compiled. (An augmented report was issued on June 25, 1973, which corrected certain minor posting errors in the February 22, 1973, report.)

By memorandum of April 6, 1973, Kofkin transmitted to Wilson a schedule setting forth concentration ratios for the four and eight largest producers, by area, apparently prepared from the report published on February 22, 1973, the administratively confidential report furnished to Wald by BNG dated March 21, 1973, and the corrections to the latter report supplied by Pavetto on or about April 3, 1973. Kofkin's covering memorandum to Wilson attempts to detail the errors in the February 22 published report, but indicates that although the errors in the March 21 composite report were corrected by Mangen's office following their disclosure on or about April 2, 1973, the errors in the earlier published report could not be corrected because, he was told by Mangen, all of the back-up data had been destroyed some time during the week of March 25, 1973.

On April 9, 1973, Mangen, as supervisor of the "National Supply Team," a group of FPC professionals utilized for natural gas reserves audits, filed with the Bureau of Natural Gas a status report on the various undertakings of his office. With respect to the R-405 data submissions pursuant to the September 12, 1972, order, Mangen reported "Work papers destroyed."

On various occasions following Kofkin's February 27, 1973, request for access to the confidential company reports Mangen indicated to his staff members, Pavetto and Joyce Powell, and possibly to Albares and others that he intended to destroy the company reports to get the Office of Economics "off his back." Mangen claims that such remarks were made in jest, and Pavetto and Joyce Powell, who confirmed the fact that the remarks were made, indicate that such remarks could have been made in that vein.

Notwithstanding whatever remarks Mangen may have made or whatever advice he may have given Kofkin or others concerning the destruction of the confidential R-405 papers, Mangen still maintained the file in his possession in his office in mid-April 1973, with the exception of the confidential filing of the Humble Oil Corporation (now Exxon) and that of the Pioneer Production Corporation. Upon the request of Humble's representative, Mangen had returned Humble's filing to the company presumably after the correction of the March 21, 1973, memorandum on the reserves of the four largest and eight largest producers which was given to Kofkin on April 3, 1973. As for the Pioneer Production Corporation filing, it apparently was timely filed by mail, but was misrouted by the FPC mailroom to the wrong office and included in a case file, where it was discovered after May 21, 1973, and then deposited with the Bureau of Natural Gas. (When the return of the Humble filing was first called to the FPC Chairman's attention on

May 21, 1973, the Chairman directed that a demand be issued for the immediate return of the filing to the Federal Power Commission, and he instructed the FPC General Counsel to issue a subpoena for the document if it was not returned promptly. The company promptly re-filed the report.)

At some point during the second or third week in April 1973, Mangen advised his Section Head, Albares, that he then was about to destroy the R-405 company filings and the worksheets prepared from those filings. According to Albares, he suggested to Mangen that before undertaking to destroy the records, Mangen should obtain the approval of the Chief of the Bureau of Natural Gas, Thomas J. Joyce. Mangen did not consult Joyce concerning the destruction of these papers and does not claim that he consulted anyone else.

On or about April 23, 1973, Mangen called George Brent Vivian, the FPC Assistant Security Officer and custodian of classified national security information in the possession of the Federal Power Commission. Mangen explained to Vivian that pursuant to a Commission order he had been appointed the custodian of certain confidential gas reserves records, that a staff report thereon had been published by the Commission, and that the records, because of their confidentiality, now should be destroyed to prevent unauthorized disclosure of the individual company data set forth therein. Mangen asked Vivian if he would undertake to have the records burned. Vivian indicated that his responsibility for classified documents extended only to national security materials but that he would be pleased to render the service requested the next time he visited the incinerator. The file was then delivered by Mangen to Vivian's office. After inquiring generally as to the nature of the documents, Vivian accepted them and put them in a safe. He provided Mangen with no receipt since these were not classified documents within the system prescribed by Executive Order 11652, March 8, 1972, for the handling of national security materials.

Thereafter, Vivian removed the R-405 documents from the safe, tore each of the papers into four pieces in the presence of a witness, Mrs. Sue Hyde, Administrative Assistant to the Chief, Office of Administrative Operations, placed them in a "burn bag" with ether material so prepared for burning, and returned the burn bag to the safe to await his next trip to the incinerator.

By letter dated May 18, 1973, Senator Hart requested Chairman Nassikas to appear before the Senate Judiciary Subcommittee on Antitrust and Monopoly on June 6, 1973, to testify concerning the extent of competition in the natural gas industry and the potential impact of deregulation of producers. The Senator's letter referred to his March 7, 1973, request for the confidential information on uncommitted reserves collected in R-405, noted its relevance to the Subcommittee inquiry, and requested that the Chairman supply all of the confidential information theretofore denied. In addition, the Senator requested all minutes, memoranda, and other instructions respecting the use and disposition of this confidential information, including those related to the previous denial thereof by the Chief, Bureau of Natural Gas.

Senator Hart's letter was received in Chairman Nassikas' office at 9:33 a.m., Monday, May 21, 1973. The Chairman immediately called in Mr. Joyce, Chief of the Bureau of Natural Gas, to begin the process of assembling all of the papers and information which appropriately could be furnished to the Senate Subcommittee. When he left the Chairman's office, Joyce consulted with Mangen concerning the materials he would have to prepare for presentation at the Subcommittee hearing.

Joyce learned for the first time in that conversation with Mangen on the morning of May 21, 1973, that Mangen had delivered the confidential R-405 file to the FPC Office of Administrative Operations for destruction. Joyce was greatly distressed by this advice. He viewed Mangen's action as a very serious matter and so informed Mangen. Upon Joyce's order, Mangen went immediately to Vivian to learn whether the documents had been destroyed, while Joyce reported the situation to the Chairman. In fact, Vivian had not burned the R-405 papers and still had them, torn as described above, in the burn bag in his safe. Mangen instructed Vivian to hold the burn bag in the safe and reported back to Joyce, who in turn reported back to the Chairman. The Chairman thereupon ordered the complete file reassembled, and the torn documents taped back together as soon as possible.

As soon as he learned that Mangen had delivered the R-405 confidential materials for destruction and before he learned that they in fact had not been destroyed, Chairman Nassikas ordered a complete investigation of the matter by the Federal Power Commission Executive Director.

The scheduled June 6, 1973, hearings before the Antitrust and Monopoly Subcommittee were subsequently rescheduled to be held beginning June 26, 1973,

and the entire file of confidential company reports and worksheets was turned over to the Antitrust and Monopoly Subcommittee on that date in response to a subpoena issued on June 21, 1973.

On June 25, 1973, the Executive Director issued a report of the progress of his investigation to that date, and copies were furnished to the Subcommittee at the June 26 hearing.

Mr. Mangen's response

In his initial response, dated August 1, 1973, Mr. Mangen denied any violation of the Commission's order and summarized his position as follows:

1. The Commission's Order did not instruct him not to dispose of the reports.
2. In the previous R-405 Order, the reports were returned to the respondents.
3. The purpose of the Order was to gather information which was to be reported in composite Form.
4. He had no possible motive for or expectation of gain from returning or otherwise disposing of the documents, and was following what he believed to be the correct procedure.

His supplemental response dated August 17, 1973, provided detailed information concerning the data collection procedures employed in Docket No. AR 69-1, an area rate proceeding involving the Southern Louisiana Area, which Mr. Mangen claims "set the precedent" for the handling of confidential information in both of the data collections in Docket No. R-405. His response describes that precedent procedure, "essentially," as follows:

1. Receipt of the data either by appointment in the field or in FPC offices. (Specifically changed in the Order of September 12, 1972, to receipt in the Washington, D.C. office.)
2. Preparation of composite report of some kind.
3. Return of the individual company reports to the respondents (or destruction in lieu of return).

The substance of Mr. Mangen's defense is that, although he had a duty under the September 12, 1972, Commission order to "maintain in confidential status" the reports filed with him and the confidential information he extracted therefrom, the September 12, 1972, order was silent as to his disposition of the documents thus maintained after they had served the purpose for which they were collected. Therefore, he alleges, he was authorized to return the reports to the companies, or in the alternative, have them destroyed because this was the procedure followed in the previous data collection in the same proceeding and, when he asked the Chief of the Bureau of Natural Gas how the confidential materials would be handled in this case, he was instructed to treat them in the same way as the confidential papers in the initial R-405 data collection. Further, Mr. Mangen asserts that it was appropriate to interpret this instruction as authorizing the return or destruction of these confidential papers because this was the manner in which the confidential papers in AR 69-1, the area rate proceeding in which Mangen was involved, were disposed of, and such disposition was specifically authorized in that proceeding by the FPC General Counsel's office. Because Mr. Mangen thus relies on the experience of these two earlier surveys, it is necessary to examine the procedures followed in those cases.

AR 69-1 Procedures

Docket No. AR 69-1 was a litigated case instituted to establish a just and reasonable area ceiling rate for the Southern Louisiana Area. On January 27, 1970, a prehearing conference was held in Houston, Texas to consider the data requirements for the proceeding and to develop procedures which would appropriately safeguard company data of a proprietary nature. On the day following the conference fourteen major producing companies joined in a motion requesting the Commission to issue an order requiring the production of the uncommitted reserves data specified in two questionnaires which had been developed previously by the FPC staff, under procedures also developed by the staff.

On March 17, 1970, the Commission issued such order (43 FPC 444) attaching two questionnaires to be responded to by two different classes of producers. Under ordering paragraph (A), the completed questionnaires were to be mailed to an independent accounting agent, Arthur Young & Company, at Tulsa, Oklahoma, and ordering paragraph (B) required Arthur Young & Co. to furnish to all parties a composite of the individual responses as soon as possible and then return the responses to the companies. Ordering paragraph (C) required the companies to

make the responses thus returned and all workpapers and other underlying data available for examination by FPC staff auditors upon the request of staff counsel. The order specifically provided that company compliance would not constitute a waiver of any claim of privilege in any future case, and all company responses and information revealed by staff audit were to be treated as confidential information by Arthur Young & Co. and by the staff under section 8(b) of the Natural Gas Act and the Freedom of Information Act.

By letter of June 3, 1970, from Commission staff counsel to the AR 69-1 producer-respondents who had reported uncommitted reserves pursuant to the order, it was announced that staff was undertaking to verify the Arthur Young & Co. composite. It advise that only a record of the volumes reported would be retained by staff, without any record of the party controlling the reported volumes. To expedite this check on the composited figures, the companies were requested to bring their reports to a designated office in the Federal Building in Houston, Texas on June 17, 1970, where FPC staff would copy off the volume figures or, in the alternative, to bring or mail the reports to the FPC headquarters offices in Washington, D.C. prior to June 16, 1970, where the necessary figures wold be transcribed and the company reports immediately returned to the respective companies.

The staff counsel letter also advised that field audits of selected companies would be made later to review the underlying data and the procedures by which the reported figures were determined.

For purposes of the first step in the procedures thus announced, that is, the verification of the Arthur Young & Co. composite, Mr. Mangen was selected by the Chief, Bureau of Natural Gas, as the only person who would actually see the companies' completed questionnaires, either in Washington or Houston, in order to ensure that their confidentiality would be maintained. Mr. Mangen extracted from each questionnaire the pertinent volume figures and entered them on worksheets which he had prepared. He also maintained a record of the company respondents whose volumes he thus transcribed. As soon as each questionnaire was examined and the necessary figures extracted, Mr. Mangen handed back the questionnaire to the company representative, if it was brought to him in person, or mailed it back to the company, if it was sent to him by mail.

For purposes of the subsequent field audit, Mr. Mangen was selected by the Chief, Bureau of Natural Gas, to design the audit procedures and prescribe the sampling technique to be used. On June 29, 1970, a memorandum prepared by Mr. Mangen was sent to the Office of General Counsel describing the audit procedures to be employed. Mr. Zabel was placed in charge of the field audits, and the audit teams were provided with detailed instructions as to how they were to conduct the audits in individual company offices and report the results thereof by telephone to Mr. Mangen in Washington. During the course of the hearing in AR 69-1, the Arthur Young & Co. composite report was introduced in evidence (Exh. 27A) and the verification and field audit procedures were described in detail on the record together with the results thereof by Messrs. Mangen and Zabel (Transcript pages 5190-5207A).

In summary, the Commission's March 17, 1970, order directed Arthur Young & Co. to return all company questionnaires to the companies, to be held by them. No authority was given to destroy any company filings. Staff Counsel's June 3, 1970, letter directing verification of the composite report directed the companies to present the returned questionnaires to Mangen, and directed him to return them immediately to the companies, to be held by them. It gave no authority to Mangen to destroy any company filings. The detailed instructions to the field audit teams specifically provided that they were to destroy or leave with the companies all workpapers after telephoning the results of their audits to Mangen. They were to take nothing from the company offices. However the instructions provided no authority to destroy any company papers. Therefore, while the AR 69-1 procedures developed by the Bureau of Natural Gas and apparently approved by the Federal Power Commission Office of General Counsel authorized the destruction of the FPC's staff auditor's worksheets prepared from the individual company's records as soon as information thereon had been reported to Mr. Mangen in Washington, these procedures did not authorize the destruction of company papers. The procedures prescribed by the Office of General Counsel were not reviewed or approved by the Commission. The issue of destruction of worksheets was raised by the Administrative Law Judge during the course of the litigation in AR 69-1. The issue was not argued on appeal to the Fifth Circuit. See *Placid Oil Co., et al. v. F.P.C.*, USCA 5, No. 71-2761, April 16, 1973.

Although Mangen ultimately destroyed the workpapers which he prepared during the course of the verification of the independent accounting agent's composite report and the subsequent field audit, we find nothing in the AR 69-1 procedure which establishes a precedent for destruction of the company filings in R-405.

The procedure in the initial R-405 data collection

Paragraph 8 of the Commission's November 4, 1970, order initiating R-405 directed the collection of data concerning the volumes of uncommitted natural gas reserves. It announced that producers would be called upon by investigating officers to make such data and any underlying data requested available on an individual company basis. It provided that information revealed to staff would be treated as confidential, and that compliance with the order would not constitute waiver of any claim of privilege by any producer. Mr. Mangen was not assigned any responsibility in this case, as he was in AR 69-1.

Paragraph 11 of the order designated James R. Tourtellotte, John W. Williams, and Paul L. Brady, staff attorneys, to serve as the staff investigators. On November 20, 1970, they sent a letter to 75 major producers, enclosing a questionnaire which detailed the uncommitted reserves information to be made available. To expedite the data collection and as a matter of convenience to the producer-respondents, two of the investigators with two engineers from the Bureau of Natural Gas set up offices in Houston, Texas, and Tulsa, Oklahoma, for the purposes of receiving the data as it was brought in by the companies. As each company came in, the investigators examined the materials they brought with them and copied the figures on FPC workpapers in the presence of the company representatives. If any questions arose, they were answered by examination and discussion of the underlying data which the company representative brought with them. All company papers were handed back to the company representatives immediately after the required figures had been transcribed.

The worksheets onto which the figures were copied did not identify the reported volumes with particular companies. Instead as each company made its data available to the investigators, the company was checked off on a list of the 75 major producers ordered to respond.

In some instances, the company representatives made their papers available to the investigators by bringing them to the Commission offices in Washington, and in a few cases the companies mailed the completed questionnaires to these offices. In every instance, as soon as the required information had been copied onto the staff workpapers, all of the company papers were returned to the companies.

Upon completion of the collection process, the staff composited the figures and reported the results to the Commission by filing its report with the Secretary on March 8, 1971. Thereafter, the staff workpapers, even though they did not identify by company the volumes reported theron, were treated as confidential papers and were deposited by Mr. Williams for safekeeping in a safe in the Commission's Office of Administrative Operations. In the course of the Executive Director's investigation, all three of the designated staff investigators were questioned concerning the ultimate disposition of the workpapers in the initial R-405 survey, and all confirmed this ultimate disposition. However, a recent search of the materials stored in the Commission's safes has failed to produce those workpapers. It appears at present at least that these workpapers, at some point over the past two and one-half years were removed from the safe and discarded, perhaps when the FPC headquarters were relocated in new building in April 1973.

In the initial data collection in R-405, as in AR 69-1, all company papers were returned to the reporting companies pursuant to specific direction. Nowhere in that process is there anything which might provide a basis for Mr. Mangen's destruction of the company reports in the present case. Unlike the prescribed procedure in AR 69-1, there was no direction to destroy even the workpapers. On the contrary, even they were preserved in a Commission safe.

The National Gas Survey

Mr. Mangen distinguishes a fourth, more comprehensive, gas reserves survey conducted recently, the National Gas Survey.

By Order of December 21, 1971, the Commission directed a study and analysis of natural gas reserves and prescribed procedures for the National Gas Survey. The order provided that any non-public commercial information obtained in the survey would be "treated as confidential" unless otherwise directed by the Commission. The procedure prescribed in Appendix A to the order required that "all company-furnished data be evaluated at the companies' offices with no data or worksheets

leaving the premises." Further, all independent reserve team worksheets prepared in the company offices were to be "preserved in the companies' offices until July 1, 1974." The independent reserve teams were to transmit a final reserve estimate for each field to an independent accounting agent. Upon acceptance of the independent accounting agent's report, the accounting agent was to dispose of all records which it prepared from the transmittals to it.

However, on March 9, 1972, the Commission issued an amending order which, first, reaffirmed the requirement that non-public commercial information obtained during the course of the survey "be treated as confidential" unless otherwise directed by the Commission, second, found that the worksheets prepared by the independent reserve teams may be better protected if placed in the custody of the Technical Director of the National Gas Survey in Washington, D.C., and third, directed that the worksheets be sent to his office "and there preserved in the custody of the Technical Director" . . . "subject to further order." All of the worksheets now are held in the Office of the Technical Director in accordance with this change.

Mr. Mangen points out that the specific instruction in the December 21, 1971, order and the March 9, 1972, amending order that the worksheets be "preserved" was absent from the September 12, 1972, order in R-405, and imposed a very different responsibility upon staff with respect to the retention of the confidential proprietary information furnished by the companies.

Mr. Mangen was assigned important responsibilities in the 1970 survey of uncommitted reserves in AR 69-1, and was very familiar with the prescribed procedures employed in that case. He was not involved in the initial uncommitted reserves study undertaken later that same year, 1970, in R-405. When the Commission, in 1972, initiated its comprehensive nationwide study of the entire natural gas reserves situation, Mr. Mangen was again importantly involved, and necessarily was thoroughly familiar with every detail of that study. It was manifest to Mr. Mangen that the Federal Power Commission policy reflected in the procedures for conducting the National Gas Survey was that confidential data was to be preserved, not destroyed. The change effected by the March 9, 1972, order was significant. Instead of requiring the companies to preserve the worksheets in the company offices along with the company records, that amending order required the confidential worksheets to be sent to the FPC offices to be held in the custody of the Technical Director of the National Gas Survey. Knowing the policy set forth in that order, Mr. Mangen cannot credibly base his unilateral decision to destroy the R-405 company filings with the Commission upon his erroneous assertion that the Commission policy is to authorize destruction of confidential filings upon publication of the report prepared from the filings.

Further, the March 9, 1972, amending order significantly removed the custody of the confidential worksheets from the companies to the Technical Director of the National Gas Survey in the FPC offices in Washington. Contrary to the policy reflected in that order, Mr. Mangen returned the filing of one company in R-405.

Discussion

The sole issue in this proceeding is whether Mr. Mangen violated the Commission's order of September 12, 1972, in R-405. By that order, the Commission entrusted Mr. Mangen to receive and maintain in confidential status the confidential company reports required by the order. The question is whether Mr. Mangen's admitted attempt to destroy the reports and his return of one of them to the reporting company violated this responsibility to the Commission. To resolve the question, it is necessary to determine precisely what that responsibility was under the order, in the light of the circumstances described above, including the experience in connection with the earlier data collections relied upon by Mr. Mangen.

It is Mr. Mangen's position that the Commission's September 12, 1972, Order Updating Nationwide Investigation in R-405 is silent as to the ultimate disposition of the confidential company reports. It is his contention that although the requirement in the order that the reports "be maintained in confidential status" imposed upon him as custodian a duty to safeguard them against unauthorized disclosure, that provision of the order provided no instruction with respect to the disposition of the reports after they had served the purpose for which they were collected.

Mr. Mangen does not claim that he either sought or was given specific authorization to destroy the reports, by his superiors, outside the terms of the order. He alleges only that he inquired, shortly after the updating investigation was instituted, as to how the confidential data to be received were to be handled, and was instructed by the Chief of the Bureau of Natural Gas that the information from the companies in this investigation was to be treated in the same way the

information in the initial R-405 data collection was treated. It is Mr. Mangen's position that this constituted authority to return the confidential company reports to the respective reporting companies or, in the alternative, to destroy them because this was the approved procedure in the initial R-405 data collection, under a precedent established in AR 69-1.

From a review of the orders and procedures thereunder relied upon by Mr. Mangen and comparison with the R-405 order of September 12, 1972, it is evident, first, that there is no accepted policy and procedure at the Federal Power Commission authorizing the destruction of confidential company reports. On the contrary, the procedural requirements necessarily must be and are prescribed in each case.

Moreover, to the extent that the procedures in the cases described above have anything in common, it is that the company papers were not to be destroyed. The AR 69-1 order of March 17, 1970, as well as the subsequent staff counsel instructions specifically provided that the company questionnaires and other papers made available would be returned immediately to the companies, first by the independent accounting agent and then by Mangen, for retention by the companies. Similarly the Commission's November 4, 1970, order in the initial R-405 proceeding which directed the companies to make available information concerning volumes of uncommitted reserves designated three staff investigators who were empowered to prescribe data collection procedures, and on November 20, 1970, they established a procedure under which their questionnaire and all company papers were returned to the companies for safekeeping immediately upon extraction of the necessary data. In the National Gas Survey, Appendix A to the Commission's order of December 21, 1971, specifically required that no company-furnished data leave the offices of the company and that the worksheets prepared by the independent reserve teams be preserved in the company offices. The Commission's subsequent March 9, 1972, order directed that these worksheets be submitted to the FPC offices in Washington, D.C. and there be preserved in the custody of the Technical Director, National Gas Survey. Therefore, in none of these cases did the Commission direct or authorize the destruction of papers required to be filed or made available by company respondents. Whatever the approved or directed disposition of staff notes and workpapers in these cases, nothing in the previous experience in AR 69-1 or the initial R-405 data collection establishes a precedent for destruction of the company reports.

Mr. Mangen points out that the approved procedures in AR 69-1 and the initial R-405 investigation provided for the return of the company papers to the companies. His position seeks somehow to equate authority to return to authority to destroy. The proposition is untenable because destruction obviously precludes any post-audit, should the need therefore arise, whereas return to the custody of the companies affords an opportunity to reexamine the source data for purposes of correction, validation, etc.

More specifically, Mr. Mangen argues that the particular terms employed in the orders in AR 69-1, the initial R-405 investigation, and the R-405 updating investigation provide no basis for distinction insofar as responsibility to preserve company papers is concerned. That argument cannot be sustained. The Commission order of March 17, 1970, in AR 69-1 provided that the company information to be "made available" in that proceeding would be "treated as confidential information" by the independent accounting agent and by the FPC staff. The Commission's original order in R-405, dated November 4, 1970, provided that the company information to be made "available" to staff investigators in that proceeding would be "treated" as confidential information" by the staff. However, the Commission's September 12, 1972, Order Updating Nationwide Investigation in R-405 required "the filing by natural gas companies listed in Appendix A of responses to the questionnaires set forth in Appendix B, and that such responses be submitted in hand to Mr. Lawrence R. Mangen" plainly marked "Confidential." It further required that the information received pursuant to the order "be maintained in confidential status."

Obviously there is a difference between a duty to "treat" as confidential and a duty to "maintain in confidential status." However, the difference depends not so much upon the particular words used as upon the basic difference between the procedure prescribed by the September 12, 1972, order in R-405 and the procedures required in the earlier investigations. In AR 69-1 and the initial R-405 investigation, the companies were required only to submit their completed questionnaires for examination and return to the companies. In the instant R-405 investigation, the companies were directed to file their responses with a designated custodian, to be maintained by him without public disclosure and without any

provision that they be returned. Therefore it cannot be concluded that the approved procedures in AR 69-1 and the original R-405 investigation, as precedent, provide Mr. Mangen with authority to return or destroy the company reports in this case.

After Mr. Mangen had prepared a composite report for publication, the Office of Economics sought to use the company reports to develop testimony for proceedings before the Commission. Thereafter a Senate Subcommittee requested that it be provided with all of the information reported by the companies. Mr. Mangen was fully aware of these demands. The Office of Economics request was initially made directly to Mangen, and it was Mangen who drafted the response to the Senate Subcommittee request.

Although it is true that both requests initially were granted only in part, this greatly intensified Mr. Mangen's responsibility to ensure that he performed his duty as custodian of the confidential company reports fully and without error. Even a minimum of judgment on his part following these requests would have dictated that he obtain specific authorization before destroying the requested documents. Had he sought such authorization from Mr. Joyce, Chief of the Bureau of Natural Gas, the incident would not have happened. This is evident from Joyce's reaction upon learning that Mangen had delivered the documents to Vivian for destruction. Joyce was greatly distressed and viewed Mangen's action as a very serious matter. Had he sought authorization from the General Counsel, he would have been told that the September 12, 1972, order required the custodian to maintain, not destroy, the reports filed by the companies. The General Counsel so testified in the Senate Subcommittee joint hearings.

In the light of all of the circumstances, it must be concluded that Mr. Mangen knew that the documents in his custody were important, that their safekeeping was critical, and that to destroy them notwithstanding the requests therefor from the Senate Subcommittee and the Office of Economics required specific authorization. Mr. Mangen knew that he did not have specific authorization to destroy the company reports under the terms of the order, and he neither sought nor received such authorization from his superiors. Although no time constraint or other circumstance appears or is claimed which would bar Mr. Mangen from getting proper instruction from the Commission, the General Counsel, or the Chief of the Bureau of Natural Gas, Mr. Mangen admits that he consulted no one. Instead, he sought to foreclose the question the easy way, by having the confidential company reports and all of his workpapers destroyed, thereby shutting off the pressures then being applied by the Office of Economics and reasonably to be expected from the Senate Subcommittee.

The evidence is clear that Mr. Mangen acted independently and without direction.

It is hereby found and determined that Mr. Mangen's action in returning the Humble Oil filing to the company representative and in attempting to destroy all of the remaining filings, under the terms of the September 12, 1972, Commission order and under all of the circumstances, constituted a breach of his duty and a violation of the Commission order which imposed that duty. Further, it is hereby found and determined that, to promote the efficiency of the service, it is necessary to take disciplinary action against Mr. Mangen.

The remaining question is as to the appropriate penalty to be assessed. It is apparent from all of the circumstances in the case that Mr. Mangen did not intend deliberately to violate the Commission's order. Moreover, as soon as it was learned that he had attempted to destroy the company reports, the attempt was frustrated, all of the records were salvaged, and the requests of both the Senate Subcommittee and the FPC Office of Economics were met.

Before it was learned that Mr. Mangen had delivered the R-405 documents to the Office of Administrative Operations for burning, he was recommended for a sustained superior performance award, including a \$350 cash award. Because of his failure to perform his duties properly in this case, the recommendation was not approved, and he thereby was denied an award which he would have received were it not for his actions in this instance.

Mr. Mangen's long service with the Federal Power Commission has included very demanding responsibilities in previous proceedings involving the conduct of various gas reserves studies and the safeguarding of confidential data. While he violated the Commission's order in R-405, his proper performance of his duties in previous cases should be taken into account.

It is hereby found and determined that Mr. Mangen should receive a formal reprimand for his violation of the Commission's order of September 12, 1972,

in Docket No. R-405, and it is hereby so ordered. The letter of reprimand attached hereto shall be served upon Mr. Mangen and a copy thereof shall be placed in his personnel file.

In the event Mr. Mangen wishes to appeal this decision, he may file an appeal in writing with the Chairman of the Federal Power Commission in accordance with FPC Administrative Manual Instruction No. 4X61.1, June 8, 1960, and shall have 30 full calendar days after receipt of this decision in which to file such appeal.

WEBSTER P. MAXSON,
Executive Director.

Attachment: Letter of reprimand.

FEDERAL POWER COMMISSION,
Washington, December 4, 1973.

Mr. LAWRENCE R. MANGEN,
Supply and Production Section, Planning and Development Division, Bureau of Natural Gas, Federal Power Commission, Washington, D.C.

DEAR MR. MANGEN: By order of September 12, 1972, in Docket No. R-405, Reliability of Electric and Gas Service, the Commission directed an investigation of uncommitted natural gas reserves to update data previously collected in the same proceeding. Ordering paragraphs 1 and 2 of that order required natural gas companies to submit to you certain data relating to uncommitted reserves, in sealed envelopes plainly marked "Confidential," and directed that the information you thus received be "maintained in confidential status."

On or about April 23, 1973, you delivered the documents you received pursuant to this order plus various worksheets prepared from those documents to the FPC Alternate Security Officer, George B. Vivian, with instructions to Mr. Vivian that he destroy them. Although none of the documents thus delivered for destruction was in fact destroyed, your actions in delivering them to Mr. Vivian and in ordering them destroyed was in direct violation of the Commission's September 12, 1972, order.

Prior to thus delivering these documents for destruction, you turned over the documents received from the Humble Oil Company pursuant to the order to counsel for that company, upon his request. Although these particular documents were subsequently returned to the Federal Power Commission, your action in turning them over to the company's representative was also in direct violation of the Commission order.

These violations are more specifically detailed in the Decision by the Executive Director, dated December 3, 1973, in the matter of Lawrence R. Mangen, Gas Supply & Production Section, Systems Operations Division, Bureau of Natural Gas, which decision was served upon you on that date and is incorporated by reference herein.

This letter is to reprimand you formally for these violations of the Commission's September 12, 1972, order. A copy of this letter of reprimand shall be placed in your official personnel file.

Yours truly,

WEBSTER P. MAXSON, *Executive Director.*

FEDERAL POWER COMMISSION,
Washington, D.C., February 6, 1974.

Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR HART: On October 18, 1973, allegations were made in testimony before the Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practices and Procedures of the United States Senate Committee on the Judiciary that there may have been underreporting of uncommitted gas reserves to the Federal Power Commission in its nationwide investigation in Docket No. R-405.

At my direction the Commission's staff has investigated these allegations. Enclosed herewith is a copy of the staff's report on the results of its investigations.

Sincerely yours,

JOHN N. NASSIKAS, *Chairman.*

Enclosure: BNG Memo 1/28/74, "Investigation of Apparent Inconsistencies in Proved Reserves Reported as Available for Sale in Docket No. R-405, Order Issued September 12, 1972"

JANUARY 28, 1974.

Memorandum to: The Commission (For Information)
From: Bureau of Natural Gas.

Subject: Investigation of Apparent Inconsistencies in Proved Reserves Reported as Available for Sale in Docket No. R-405, Order Issued September 12, 1972.

In response to a memorandum by Chairman Nassikas dated December 6, 1973, the staff has investigated apparent inconsistencies in the reports of proved reserves available for sale filed by major producer companies responding to the Commission "Order Updating Nationwide Investigation" issued September 12, 1972, in Docket No. R-405. The purpose of this investigation was twofold:

(1) To determine whether or not a satisfactory resolution of the apparent inconsistencies was possible and, if not

(2) To determine whether or not the apparent inconsistencies resulted from deliberate underreporting of proved reserves which were available for sale on December 31, 1971, and June 30, 1972, the reporting dates prescribed in the Commission Order of September 12, 1972.

During November 1973 an examination by staff indicated apparent inconsistencies in the information submitted by several respondent producers in Docket No. R-405 in comparison with the same producers' sales contracts filed with the Commission within two months after the respective reporting dates specified above. In addition, allegations of the possibility of serious underreporting of uncommitted reserves had been made on October 18, 1973, before the Subcommittee on Antitrust and Monopoly and the Subcommittee on Administrative Practice and Procedure of the U.S. Senate Committee on the Judiciary.

The apparent inconsistencies revealed by the staff analysis were of two categories:

A. Producers who reported no proved reserves available for sale in certain geographic areas on December 31, 1971, or June 30, 1972, but who filed gas sales contracts with the Commission during January–February 1972 or July–August 1972,¹ for the sale of volumes of natural gas from the same areas for which no proved reserves available for sale had been reported. Eight respondent producers were in this category.

B. Producers who reported proved reserves available for sale in certain geographic areas on December 31, 1971, and June 30, 1972, but who filed gas sales contracts with the Commission during January–February 1972 or July–August 1972¹ which indicated that gas volumes to be delivered from the same areas under these contracts might substantially exceed the reported reserves available for sale. Three respondent producers were in this category.

On December 7, 1973, the staff sent letters to the eleven producers requesting explanations by January 2, 1974, for the apparent reporting inconsistencies. After analysis of the explanations, it was deemed necessary to contact four pipeline companies in order to verify statements made by five producers regarding the status of certain contract negotiations allegedly in progress on or before the reporting dates. Letters were sent to the four pipeline companies on January 7, 1974, and responses have been received.

Explanations for the apparent inconsistencies involving the eleven producers have been summarized and are presented below along with staff comments where appropriate. Company names have not been used in the following summaries because the information filed by the producers has been maintained in confidential status by staff in accordance with the Commission Order in Docket No. R-405, issued September 12, 1972.

CATEGORY A

1. The contract in question was executed by the producer on April 6, 1972, although the contract was dated July 3, 1972, and the buyer executed the contract on July 7, 1972. This was verified by the staff. The producer considered this gas committed as of June 30, 1972.

2. Although the contract was signed on February 4, 1972, the producer considered the gas committed as of December 31, 1971, because its interest in the sale was obtained by virtue of inclusion of its lease interest in a forced Conservation Commission unit effective October 1, 1971. The gas from the well was being sold to a pipeline company by other producers prior to the formation of the unit and the

¹ The contracts were also dated within the same January–February 1972 or July–August 1972 periods.

producer in question elected to sell his gas to the pipeline by ratifying the existing contract. Subsequent to the formation of the unit, the producer reached a verbal agreement with the pipeline and the latter agreed to prepare the contract and ratification for purchase of the producer's unit interest in the gas. The ratification contract was furnished to the producer in January 1972 and signed by him on February 4, 1972. Staff has verified that the producer ratification contract was dated February 4, 1972, but the pre-existing contract which it ratified was dated prior to December 31, 1971. The gas from the unit was not available for sale as of December 31, 1971, because it was committed to the pipeline prior to that date even though the ratification contract was not signed by the producer until February 4, 1972.

3. Although the contract was dated August 7, 1972, the producer did not consider the gas available for sale as of June 30, 1972, because the pipeline company had the major interest in the lease, had completed and tested a well on the lease between May 31 and June 20, 1972, and the producer and the pipeline were negotiating for the producer's interest prior to June 30, 1972, as indicated in a letter from the pipeline to the producer, a copy of which was attached to the producer's response.

4. Although the contract was dated August 23, 1972, the producer did not consider the gas available for sale on June 30, 1972, because the producer was in the process of final negotiations for the sale of the gas to a pipeline company. By letter dated January 14, 1974, the pipeline confirmed that negotiations for the sole of this gas were in progress as of June 30, 1971.

5. Although the contract was executed on January 7, 1972, the producer had been negotiating for the sale of the gas to a pipeline company between September 21, 1971, and December 21, 1971, and did not consider the gas available for sale as of December 31, 1971. The producer does not consider the "mere formality of executing the agreement in any way altered its prior commitment of these reserves." By letter dated January 22, 1974, the pipeline confirmed that negotiations for the sale of this gas began prior to December 31, 1971.

6. Although the contract was dated January 7, 1972, the producer had been negotiating with a pipeline company for the sale of the gas prior to December 31, 1971, as evidenced by a copy of a letter from the pipeline to the producer dated December 17, 1971. The producer considered the gas as committed to the pipeline company as of December 31, 1971.

7. Although the contract was dated July 14, 1972, the producer did not consider the gas available for sale as of June 30, 1972, because it had obtained an offer of a prepayment of \$180,000 on March 24, 1972, which the producer verbally accepted and felt obligated to sell the gas to the pipeline offering the prepayment. It was negotiating for the sale of the gas to the pipeline company prior to June 30, 1972. By letter dated January 15, 1974, the pipeline company confirmed the negotiation prior to June 30, 1972.

8. Although the contract was dated January 25, 1972, the company did not consider the gas available for sale as of December 31, 1971, because it was negotiating for the sale of the gas to a pipeline company beginning in June 1971. In November 1971, the company reached agreement with the pipeline on the terms and conditions to be included in an agreement including an advance payment by the pipeline. The parties recognized that the drilling schedule and the construction schedule would not permit deliveries until February 1973. In view of the time element and year-end pressures, no special effort was made to complete the details needed for the final contract forms. The producer felt it had a firm obligation prior to December 31, 1971, to sell the gas to the pipeline. By letter dated January 14, 1974, the pipeline company confirmed that negotiations were in progress for the sale of this gas prior to December 31, 1971.

CATEGORY B

1. This case involved the reporting of less gas than seemed to be indicated by a contract dated July 6, 1972. It appears however that the contract involved gas not reported in the questionnaire at all because it was considered not available for sale. The contract in question was signed by the producer on June 29, 1972, although the contract was dated July 6, 1972. Staff verified this by noting an acknowledgement attached to the contract showing the producer had signed the contract on June 29, 1972. Accordingly the gas involved was considered by the producer as committed as of June 30, 1972.

2. This case involved the reporting of uncommitted reserves in an area where the volume reported seemed much smaller than indicated by a contract dated January 26, 1972. The producer responded that the reported volume had no relationship to the contract in question. That contract involved gas in another area of the same county as that in which the reported reserves were located. The negotiation of this contract with a pipeline company was initiated by the producer's predecessors of ownership. The producer became involved in the contract negotiation during the acquisition of its interest from its predecessor. The assignment of interest was dated December 27, 1971, and was consummated on February 8, 1972. The gas sales contract with the pipeline company was in the final stages of negotiation but the producer had not concluded the acquisition of the interest in the reserves as of December 31, 1971. It did not report such reserves as available for sale because it had not in fact acquired title to the reserves as of December 31, 1971. By letter dated January 21, 1974, the pipeline company confirmed the statement that the reserves were under negotiation prior to December 31, 1971.

3. This case involves the reporting of smaller reserves than appeared to be indicated in the contract dated July 25, 1972. The company submitted a chronological listing of its drilling activities in the area involved, dates of deliveries and its current estimate of reserves from the wells involved. As of June 30, 1972, it estimated 750,000 Mcf of reserves available from the area based on drilling as of that date. Based on more up-to-date information, it currently estimates that 1,303,701 Mcf will ultimately be available from the reserves for which it provided the estimate as of June 30 1972. It states while this is 175% of the initial estimate "it is not surprising considering the small magnitude of the reserve involved. About 2/3 of the deliveries to a pipeline company under the contract in question were delivered from reserves which were not developed until after June 30, 1972." The production figures submitted indicated that the reserves involved have been substantially depleted within one year after being placed on production.

CONCLUSIONS AND RECOMMENDATION

Our investigation of apparent inconsistencies between the data filed by producers in response to the Commission Order in Docket No. R-405 and producer gas sales contracts, has revealed that the apparent inconsistencies have been reasonably explained and that allegations of deliberate underreporting of proved reserves available for sale are not supported, based on our analysis of the available information.

It is recommended that any future questionnaire designed to elicit information on reserves available for sale require the producers to specify those reserves for which negotiations for sales were in progress on or before the designated reporting dates.

In regard to investigating the accuracy of the reported estimates of proved reserves which were available for sale on the reporting dates December 31, 1971, and June 30, 1972, it must be remembered that there are two distinctly separate aspects of the problem:

- (1) Were any reserves available for sale by a major producer that were not properly reported as available?
- (2) With what volumetric precision were the estimates of uncommitted reserves reported?

This investigation has addressed itself exclusively to the first aspect based on information in the Commission's records. The second can only be determined by audit of the reservoir data supporting the estimates of reserves reported as available for sale.

LEON H. FRIEDLANDER,
Head, Data Management Section.

Approved:

GORDON K. ZARESKI,
Chief, Planning and Development Division.

Approved:

FRANCIS C. ALLEN,
Chief, Bureau of Natural Gas.

Concurrence:

HASKELL P. WALD,
Chief, Office of Economics.

U.S. SENATE,
 COMMITTEE ON THE JUDICIARY,
 SUBCOMMITTEE ON ANTITRUST AND MONOPOLY,
 Washington, D.C., May 20, 1974.

Mr. JAMES T. HALVERSON,
Director, Bureau of Competition,
Federal Trade Commission, Washington, D.C.

DEAR MR. HALVERSON: At your request, the Senate Antitrust and Monopoly Subcommittee has voted to release to the Federal Trade Commission the natural gas reserve data obtained by the Subcommittee from the Federal Power Commission by subpoena dated June 21, 1973.

In addition to the gas reserve data, I am also forwarding the following:

1. Letters received from Standard of Indiana, Superior Oil Company and Mobil Oil Corporation.

2. Correspondence between myself and the Federal Power Commission concerning this material.

3. A summary report prepared for the Subcommittee by John Wilson, who was then an economist with the Federal Power Commission, pointing out certain contrasts between the reserve information reported to the Federal Power Commission and to the U.S. Geological Survey data on "proved and shut-in" South Louisiana Federal Offshore acreage.

4. An up-dated Federal Power Commission staff report on uncommitted gas reserves (Docket No. R-405-A).

Best wishes.

Sincerely,

PHILIP A. HART, *Chairman.*

Enclosures as listed above omitted.

CHIEF, OFFICE OF ECONOMICS.

FEBRUARY 8, 1974.

Melvin Kofkin:

Final report of Executive Director's Investigation of the Handling of Confidential Gas Reserves Data Filed in R-405 Proceeding

In the subject report, dated January 23, 1974, there are several statements which are individually incorrect and collectively tend to project a distorted view of my actions.

At the bottom of page 3 it is stated that I was directed by Dr. Wilson "to attempt to learn from the information filed by the companies which individual producers and which areas accounted for the total reserves reported to be available for sale on June 30, 1972." Later in the same paragraph (see top of page 4) it is again stated that my instructions were to obtain the data "by company". These statements are incorrect. Dr. Wilson's instructions, as well as my own interpretation of his instructions, did not call for data "by company" but only by largest holding, 4 largest, and 8 largest, with no identification of company names. Neither Dr. Wilson nor I sought access to the original company reports or the company data from these reports. A check of the transcripts of my interview with the Executive Director and my testimony before the Subcommittee will prove that I never "tried to gain access to the confidential company filings through various employees of the Bureau of Natural Gas . . ." (see page 4).

A similar error at another point on page 4. At no time did Dr. Wilson instruct me "to gain access through low-level employees who might be working with the confidential documents." I object to the suggestion that I attempted to obtain any information by misdirection or endeavored to induce any employee of the Commission to furnish me with information that I did not believe I was legally privileged to have. Any informality in Dr. Wilson's instructions to me were due to the informal atmosphere common to most small professional groups. I would also object to the suggestion in the second paragraph on page 4 that I was "unwilling to identify" the Bureau personnel whom I contacted for this assignment. I identified everyone to the best of my ability.

Later on page 4 it is stated: "He [Kofkin] did not admit to Wilson that he had talked with Mangen . . .". At the time of my report to Dr. Wilson I believed my telephone conversation was with Mr. Zabel and I so testified under oath before the Subcommittee.

The impact of these parts of the report is to project an image of stealth and deviousness which is totally opposite to my intent and actual behavior. Furthermore, the report attributes an attempt on my part to defy the Commission's rules regarding access to confidential data. On the contrary, I respected those rules at every stage of my assignment.

Because of the seriousness of these allegations, I request that this memorandum be made part of the Commission's official file on the R-405 investigation of the handling of the documents.

MELVIN KOKIN.



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